

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

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

**AGREEMENT AS TO PROPOSED PROCEDURAL SCHEDULE, RELATED
PROCEDURAL ITEMS, AND TEST YEAR TRUE-UP CUT-OFF DATES**

Come now Union Electric Company d/b/a Ameren Missouri (“Ameren Missouri” or “Company”), the Staff of the Missouri Public Service Commission (“Staff”), the Office of the Public Counsel (“Public Counsel”), the Missouri Department of Natural Resources (“MDNR”), Missouri Energy Group (“MEG”)¹, Missouri Industrial Energy Consumers (“MIEC”)², AARP, the International Brotherhood of Electrical Workers and International Union of Operating Engineers Locals (collectively “the Unions”), the Midwest Energy Users Association (“MEUA”)³, Consumers Council of Missouri, the Missouri Retailers Association (“MRA”), Charter Communications, Inc. (“Charter”), and the Natural Resources Defense Council (“NRDC”) (collectively “the Proponents”) and for their agreement as to proposed procedural schedule, related procedural items, test year, and true-up cut-off dates, state as follows:

1. The Commission in its September 7, 2010 *Order Directing Notice, Suspending Tariff, Setting Hearings, And Directing Filings* scheduled an early prehearing conference for October 12, 2010, and directed the parties to file a proposed procedural schedule on or before

¹ MEG consists of Barnes-Jewish Hospital, Buzzi Unicem USA, Inc. and SSM Healthcare.

² MIEC consists of Anheuser-Busch Companies, Inc., BioKyowa, Inc., The Boeing Company, Doe Run, Enbridge, Explorer Pipeline, General Motors Corporation, GKN Aerospace, Hussmann Corporation, JW Aluminum, Monsanto, Precoat Metals, Procter & Gamble Company, Nestlé Purina PetCare, Noranda Aluminum, Saint Gobain, Solutia and U.S. Silica Company.

³ MEUA consists of Wal-Mart Stores, Inc.

October 19, 2010. The Commission's September 7th Order also directed the parties to file a recommendation respecting local public hearings to be held in this case (also due October 12th), and directed Staff, Public Counsel, and any persons or entities requesting intervention to make filings respecting the test year and concerning a true-up (due October 4th).

2. At the request of some of the parties that made filings respecting the test year and a true-up, who indicated that they were unable to take a final position on the test year and true-up until after the early prehearing conference and related procedural discussions were complete, the Regulatory Law Judge gave the non-Company parties leave to make filings respecting the test year and true-up until October 19, 2010.⁴

3. As a result of off-the-record discussions among those parties appearing at the early prehearing conference, a general consensus was reached on the dates to recommend to the Commission by which or on which various procedural events would occur, but the parties indicated in a filing made on October 19, 2010 that they needed some additional time to finalize some dates pertinent to the Staff's audit of the scrubbers at the Company's Sioux Plant. In that October 19, 2010 filing, the parties requested that the deadline to file a proposed procedural schedule (and to supplement prior filings regarding the test year and true-up) be extended one additional week, to October 26, 2010. By order dated October 21, the Commission granted the parties' request to extend those dates. The Staff requested an extension of an additional three (3) days to October 29, 2010 in a filing made on October 26, 2010, and requested a further extension

⁴ MEG, MIEC, the Staff, and Public Counsel made filings respecting the test year and true-up. MEG and MIEC concurred in the proposed test year but took no position on the necessity of a true-up; the Staff and Public Counsel neither concurred nor objected to the proposed test year or true-up, but expressed the desire to discuss the same at the early prehearing conference and to later make a filing regarding the same in connection with filings related to the procedural schedule. As noted hereinafter, the Proponents concur in the proposed test year and true-up, subject to the agreements reflected in this Jointly Proposed Procedural Schedule.

to November 1, 2010 in a filing submitted on October 30, 2010.

4. The Proponents, with the exception of NRDC and MAWC, appeared at the October 12, 2010 early prehearing conference and participated in the development of the jointly proposed procedural schedule which follows. All of the Proponents have since reached agreement on the jointly proposed procedural schedule which is attached, and have reached agreement respecting the appropriate test year in this case, which will be the twelve calendar months ended March 31, 2010, and respecting a true-up in this case, with a true-up cut-off date of February 28, 2011. The non-Ameren Missouri parties will use month ending closings through September 30, 2010 for the Taum Sauk facility and the Sioux Plant scrubbers for purposes of their direct testimony to be filed on February 4, 2011. The Proponents have also reached agreement on certain other procedural matters set forth herein. Those agreements are reflected below, as well as alternative dates to those originally contained in the Commission's September 7th Order.

5. The Proponents are requesting that the Commission change the evidentiary hearing dates that it set in its September 7th Order from the two weeks April 18-22 and April 25-29 to the two-plus weeks Tuesday, April 26-29; May 2-6; and Tuesday -Wednesday, May 10-11, with Thursday-Friday May 12-13 held in reserve, to be used only if necessary.⁵ The proponents are also requesting that the true-up hearings be moved from May 16-17 to May 31-June 1. Currently, File No. WC-2010-0227 is scheduled for evidentiary hearing on May 2-4, 2011. Undersigned Staff counsel has been advised by Staff counsel in File No. WC-2010-0227 that all parties involved in that Staff complaint case have graciously agreed to a rescheduling of the evidentiary hearing in File No. WC-2010-0227 in order to allow the above schedule to be entered

in this Ameren Missouri matter. Thus, the Proponents are also requesting a rescheduling of the May 2-4, 2011 evidentiary hearing in File No. WC-2010-0227.

6. The Proponents agree that the Friday, February 4, 2011 Direct Testimony filing by non-Ameren Missouri parties shall exclude customer class cost-of-service and rate design issues.

7. The Proponents agree to the following respecting the true-up:⁶

a. that true-up testimony should be limited to changes in quantification of new data from applying methodologies used by the party filing the true-up testimony when that party developed direct, rebuttal or surrebuttal testimony in this case, and shall not introduce changes in methodology; that the true-up shall include all major changes to revenue, expenses, rate base and capital structure occurring through the cut-off date of February 28, 2011, and that the following items are anticipated to be trued-up as of the true-up date of February 28, 2011: plant-in-service, depreciation reserve, materials and supplies (including fuel inventories), cash working capital (excluding lead/lag days), customer advances for construction, customer deposits, accumulated deferred income taxes, pension and Other Post-Employment Benefits (“OPEB”) tracker regulatory asset/liability balances, energy efficiency regulatory asset balances, impact of customer growth on revenues, fuel and purchased power net of off-system sales (net fuel costs), compensation, steam plant maintenance expense, vegetation management/inspection tracker

⁵ It is agreed that only rate design/customer class cost-of-service issues would be heard on Wednesday, May 11.

⁶ This paragraph does not apply to the Taum Sauk facility and the scrubbers at the Sioux Plant, which are addressed in subsequent paragraphs.

expenditures, capital structure, costs of debt and preferred stock, depreciation expense, various amortizations (such as the energy efficiency regulatory asset amortization), property taxes, other significant items, both increases and decreases, and income tax expense as affected by other true-up items. The Proponents agree that no one is precluded from proposing such significant additional item(s) as a proper true-up item, but the other parties should be timely notified in writing of a party's decision to propose an additional item(s) as a proper true-up item(s) such that parties can conduct discovery and properly address or object to the additional item(s) in true-up direct. The inclusion of an item in the preceding list of anticipated true-up items shall not preclude or limit any party from objecting to a specific item or event as inappropriate for treatment as a true-up item or as inappropriate for inclusion in the Commission's determination of the revenue requirements in this case. Further, inclusion of an item in the preceding list of anticipated true-up items shall not preclude or limit any party's discovery rights in any way as to the listed items or any other items or matters involved in this case.

- b. That to be included in the true-up, standard documentation must be available for inspection at the Company's offices in St. Louis for all true-up items (i.e., monthly operating reports, general and plant ledgers, including accumulated depreciation reserve, and supporting invoices) which assure that the item in fact has occurred or is in service, has been booked, payment has been recorded in the Company's accounting system and is auditable by the April 5, 2011 date specified for providing the true-up data.

8. With respect to the scrubbers at the Sioux Plant, the Proponents agree that the procedural schedule proposed herein allows for the audit of the Company's investment in the Sioux scrubbers reflected in month ending closings through December 31, 2010, which can be included in rate base in this case, so long as it is determined that the Sioux scrubbers are in-service by February 28, 2011,⁷ provided however that nothing in this Agreement limits the rights of the non-Ameren Missouri Proponents to contest the inclusion of the Company's investment in the Sioux scrubbers in rate base on any basis other than the use of construction accounting, which is addressed in paragraph 9 herein.

9. On March 24, 2010, the Commission issued in Case No. ER-2010-0036 its Order Approving First Stipulation And Agreement in which it approved the First Nonunanimous Stipulation And Agreement filed on March 10, 2010. The First Nonunanimous Stipulation And Agreement stated in the section entitled "AFUDC On Sioux Scrubbers" at pages 3-4 as follows:

AmerenUE shall be allowed to continue to accrue Allowance for Funds Used During Construction ("AFUDC") on the wet flue gas desulfurization units ("scrubbers") AmerenUE is presently installing on the No. 1 and No. 2 generating units at AmerenUE's Sioux generating station, with the rate of return on equity ("ROE") adopted by the Commission in this case to apply to the equity component of that AFUDC. AmerenUE shall also be allowed to defer the depreciation expense (but no other Sioux scrubber-related expense) of the Sioux scrubbers during the period commencing when the costs of the Sioux scrubbers are booked to plant-in-service and ending the earlier of: (a) the effective date of new rates in AmerenUE's next general rate proceeding or (b) January 1, 2012.

⁷ The Company has indicated that it believes the Sioux scrubbers will be in-service by February 28, 2011, and in all likelihood sooner than that date, and has agreed to provide notice to the parties on or before January 18, 2011 if the Company then has information suggesting that the scrubbers may not be in-service by February 28, 2011. While the parties are not agreeing that the Company's investment in the scrubbers can be included in rate base in this case if the scrubbers are not in-service by February 28, 2011, the Company by agreeing to the February 28, 2011 date herein does not waive its right to request that the Commission extend the February 28, 2011 in-service date. With regard to the agreed-upon construction accounting (see paragraph 9 below) for the scrubbers at Sioux, the continued AFUDC and deferral of depreciation will be calculated based upon the month ending closing balances through December 31, 2010 (subject to determination by the Commission that the dollars reflected in that month ending closing balance should be included in rate base) through the operation of law date in this case, with said amount to be included in the final true-up figures as part of the true-up phase of the case.

10. The Proponents will use month ending closings through December 31, 2010 for the Taum Sauk facility for purposes of their true-up direct testimony to be filed on May 20, 2011.

11. The Proponents also agree to the following procedures, and request the Commission to order compliance with these procedures as part of the Commission's Order setting the procedural schedule, establishing the test year, and establishing the true-up cut-off date for this case:

(a) All parties agree that they will 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, .XLS). Parties are not required to put information that does not exist in electronic format into electronic format for purposes of exchanging it.

(b) An effort should be made to not include in data request questions either highly confidential or proprietary information. If either highly confidential or proprietary information must be included in data request questions, the highly confidential or proprietary information should be appropriately designated as such pursuant to 4 CSR 240-2.135.

(c) Counsel for each party shall receive electronically from each other party serving a data request, an electronic copy of the text of the "description" of that data request 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 must 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 the Company or Company counsel's designee, and 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 Caseworks Extranet site; however, in the case of responses to data requests Staff issues to it, Ameren Missouri shall also submit the responses to Staff data requests in EFIS, if feasible, or if submission of responses to Staff data requests 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, the attachments will be accessible via the Company's Relativity Extranet site.

(d) Until the February 4, 2011 filing of direct testimony, the response time for all data requests is 20 calendar days, and 10 calendar days to object or notify that more than 20 calendar days will be needed to provide the requested information. After February 4, 2011 until the filing of rebuttal testimony on March 25, 2011, the response time for data requests becomes 15 calendar days to provide the requested information, and 8 calendar days to object or notify that more than 15 calendar days will be needed to provide the requested information. After the filing of rebuttal testimony on March 25, 2011, the response time for data requests becomes 5 business days to provide the requested information, and 3 business days to object or notify that more than 5 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 will not be needed for data request responses posted on the Company's Caseworks Extranet site).

(e) Workpapers that were prepared in the course of developing a witness' direct or rebuttal testimony should not be filed with the Commission but, without request, should be submitted to each party within 2 business days following the filing of the particular testimony and workpapers prepared in the course of developing a witness' surrebuttal, true-up direct or true-up rebuttal testimony should not be filed with the Commission but should be submitted to each party simultaneously with the filing of the particular testimony, unless a party has indicated that it does not want to receive some or all of the workpapers. Workpapers containing highly confidential or proprietary information should 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 should so notify the other parties within the time period for providing those workpapers.

(f) 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 outputs, 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. The Company may provide workpapers by posting the same 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.

(g) For purposes of this case, the parties request the Commission waive 4 CSR 240-2.045(2) and 2.080(11) with respect to prefiled testimony, and treat prefiled testimony or other filings to be made in this case that are made in EFIS as timely filed if filed before midnight on the date the filing is due.

(h) Documents filed in EFIS shall be considered properly served by serving the same on counsel of record for all other parties via e-mail.

(i) The parties hereby request that the Commission provide for expedited transcripts of the evidentiary hearings.

12. Public Counsel proposes that the number and locations of local public hearings be substantially similar to Case No. ER-2010-0036,⁸ and the other Proponents either support or do not object to this proposal. Subject to the Commission's schedule and the availability of the proposed locations, Public Counsel proposes that a local public hearing be held at each of the following locations:

- St. Charles County Administration Building, Room 116, 201 North 2nd Street, St. Charles, Missouri 63301
- Hayti High School, ITV Room, 400 North 4th Street, Hayti, Missouri 63851
- Mexico High School – Emmons Hall, 639 North Wade, Mexico Missouri 65265
- Moberly Area Community College, Auditorium, 101 College Ave., Moberly, Missouri 65270
- Truman State University, Student Union, 901 South Franklin Street, Kirksville, Missouri 63501
- Governor Office Building, 200 Madison Street, Room 310, Jefferson City, Missouri 65102

⁸ The Commission held a hearing at Meramec Community College in Case No. ER-2010-0036. Meramec is fairly close to the Viking Conference Center, and the room at the Viking Conference Center was considerably larger than the room at Meramec, so Public Counsel suggests eliminating Meramec (unless a larger room is available there).

- Harris Stowe State University, Main Auditorium, Room 112, 3026 Laclede, St. Louis, Missouri 63101
- O’Fallon City Hall, 100 North Main Street, O’Fallon, MO 63366⁹
- St. Louis County Library – Thornhill Branch Auditorium, 12863 Willowyck Drive, St. Louis, Missouri 63146
- University of Missouri-St. Louis, One University Boulevard, Millennium Student Center Building, North Campus, Century Room B & C, St. Louis, Missouri 63121
- Julie Davis Regional Branch Library, 4415 Natural Bridge Avenue, St. Louis, Missouri 63113
- Holiday Inn Southwest/Viking Conference Center, 10709 Watson Road, Salon A, St. Louis, Missouri 63127
- Fox C-6 School District, Roy Wilde Conference Center, 849 Jeffco Boulevard, Arnold, Missouri 63010
- Excelsior Springs High School, Commons, 612 Tiger Drive, Excelsior Springs, Missouri 64024
- National Guard Armory, 1702 State Highway 114 East, Dexter, Missouri 63841
- Union R-XI High School, 1 Wildcat Drive, Union, Missouri 63084

Public Counsel proposes that most of the hearings be held in the evening, but that some be held at noon. Public Counsel also requests that the Commission avoid, to the greatest extent possible, holding two hearings at the same time unless the two hearings are linked by video. Public Counsel proposes that local public hearings begin after rate design direct testimony is filed on February 10, and that any local public hearings that the Commission schedules during the week of February 28-March 4 (when the settlement conference is being held) be the ones closest to Jefferson City.

⁹ The City of O’Fallon has reserved the 2nd floor gym for Wednesday, February, 16, 2011 at 6:00 pm for the public hearing.

13. The Proponents propose the following public notice:

IMPORTANT NOTICE

Ameren Missouri has filed revised tariff sheets with the Missouri Public Service Commission that are designed to increase the company's electric service revenues by approximately \$263 million. For the average residential customer the proposed increase would be approximately 11 percent or \$9.30 per month. Ameren Missouri's rate filing includes a request to continue its fuel adjustment clause that reflects changes in the cost of fuel used to generate electricity on customers' bills through a separately-identified surcharge or credit outside a general rate case. Public comment hearings have been set before the Public Service Commission as follows:

[Insert locations, dates and times here.]

*A question-and-answer session will be held one-half hour before the beginning of each hearing.

If you are unable to attend a live public hearing and wish to make written comments or secure additional information, you may contact:

The Office of the Public Counsel, P.O. Box 2230, Jefferson City, Missouri 65102, telephone (573) 751-4857, email opcservice@ded.mo.gov; or

The Public Service Commission, Post Office Box 360 Jefferson City, Missouri 65102, telephone 800-392-4211, email pscinfo@psc.mo.gov.

Comments may also be registered in the case using the Commission's electronic filing system at <https://www.efis.psc.mo.gov/mpsc/Comments.html>.

The Public Service Commission will also conduct evidentiary hearings at its offices in Jefferson City from April 26-May 11 and May 31-June 1, 2011, beginning at 8:30 a.m. The hearings and local public hearings will be held in buildings that meet accessibility standards required by the Americans with Disabilities Act. If a customer needs additional accommodations to participate in these hearings, please call the Public Service Commission's Hotline at 1-800-392-4211 (voice) or Relay Missouri at 711 before the hearing.

14. None of the Proponents shall be deemed to have approved or acquiesced in any questions of Commission authority, accounting authority order principle, cost of capital methodology, capital structure, decommissioning methodology, ratemaking principle, valuation methodology, cost of service methodology or determination, depreciation principle or method, rate design methodology, cost allocation, cost recovery, or prudence that may underlie this

Agreement or for which provision is made in this Agreement.

15. This Agreement represents a negotiated settlement of all issues contained herein. Except as specified herein, the Proponents shall not be prejudiced, bound by, or in any way affected by the terms of this Agreement: (a) in any future proceeding; (b) in any proceeding currently pending under a separate docket number; and/or (c) in this proceeding should the Commission decide not to unconditionally approve this Agreement.

16. The provisions of this Agreement have resulted from negotiations among the Proponents and are interdependent. In the event the Commission does not approve and adopt the terms of this Agreement as a whole and without conditions, it shall be void and no party hereto shall be bound, prejudiced, or in any way affected by any of the agreements or provisions contained herein.

17. When approved and adopted by the Commission, this Agreement shall constitute a binding agreement among the Proponents hereto. The Proponents shall cooperate in defending the validity and enforceability of this Agreement and the operation of this Agreement according to its terms.

18. This Agreement does not constitute a contract with the Commission. Acceptance of this Agreement by the Commission shall not be deemed to constitute an agreement on the part of the Commission to forego any investigative or other power that the Commission has. Nothing in this Agreement is intended to impinge on or restrict, in any manner, the exercise by the Commission of any statutory right, including the right to access information, or any statutory obligation. Nothing in this Agreement is intended to impinge on, restrict, or limit, in any way, the investigative powers of the Office of the Public Counsel, including its rights to access information and investigate matters related to the Company. The Proponents to this Agreement

can only bind themselves. The Proponents to this Agreement cannot bind non-signatories or the Commission itself.

19. This Agreement contains the entire agreement of the Proponents. Silence in this Agreement on a particular topic or issue indicates that the Proponents reached no agreement regarding that topic or issue.

20. All of the obligations and conditions the Company or another Proponent agrees to and assumes in this Agreement shall be binding upon any division, successor, or assignee of the Proponent in the same manner and to the same extent as the Proponent.

21. This Agreement, if approved by the Commission, will be deemed to have become effective as of the date the order of the Commission approving this Agreement becomes effective.

22. The Proponents agree that disputes related to the implementation, operation, and interpretation of this Agreement can be taken to the Commission for resolution.

23. The Proponents agree that the timing of events as set out in this Agreement is material to the Agreement, *i.e.*, time is of the essence in this Agreement.

WHEREFORE, in response to the Commission's September 7th Order, the Staff files, on behalf of itself and the parties identified above, this Agreement As To Proposed Procedural Schedule, Related Procedural Items and Test Year True-Up Cut-Off Dates, and requests that the Commission adopt the proposed procedural schedule, related procedural items, test year, and true-up cut-off dates.

SMITH LEWIS, LLP

/s/ James B. Lowery

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Respectfully submitted,

STAFF of the
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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or emailed to all counsel of record this 1st day of November 2010.

/s/ Steven Dottheim_____