

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

In the Matter of Union Electric Company	)	
d/b/a Ameren Missouri's Tariffs to	)	<b><u>Case No. ER-2012-0166</u></b>
Increase Its Annual Revenues for	)	
Electric Service.	)	

**THE MIEC'S RESPONSE TO AMEREN MISSOURI'S MOTION TO  
STRIKE SURREBUTTAL TESTIMONY OF JAMES R. DAUPHINAIS, OR  
ALTERNATIVELY BE GRANTED LEAVE TO FILE SUR-  
SURREBUTTAL TESTIMONY**

For the MIEC's response to Ameren Missouri's Motion to Strike Surrebuttal Testimony of James R. Dauphinais Regarding Treatment of Midwest ISO Transmission Charges, and Alternative Motion for Leave to File Sur-Surrebuttal Testimony, it states as follows:

1. The MIEC consents to granting Ameren Missouri's Alternative Motion for Leave to File Sur-Surrebuttal Testimony. In anticipation that the Commission will grant that Motion, the MIEC respectfully requests that the Commission not schedule the live testimony that will include this issue until at least 7 days after Ameren Missouri files such sur-surrebuttal testimony. That way both the Commission and the other parties will have adequate time to review the testimony.
2. The MIEC opposes the Motion to Strike portions of Mr. Dauphinais' testimony.
3. The issue of whether the subject transmission expenses are or should be included in the FAC tariff's calculation of the FAC surcharge is an important issue upon which the Commission deserves the parties' full briefing.

4. Ameren Missouri's FAC tariff as it is currently written does, in fact, exclude the transmission expenses at issue from calculation of the FAC surcharge. Dauphinais Surrebuttal at 15. Apparently, the tariff is not as clear as it needs to be or Ameren Missouri would not be including properly excluded expenses in its calculation of the surcharge. This apparent lack of clarity in FAC tariffs is exactly what Ms. Mantle addressed in her direct testimony. Ameren Missouri witness Haro addressed this specific issue in his rebuttal testimony in response to Ms. Mantle, and Mr. Dauphinais, in turn, addressed Mr. Haro's rebuttal testimony on this point. Dauphinais Surrebuttal at 1, 3, and 9-16.

5. In view of the above facts, Mr. Dauphinais' surrebuttal testimony on this point clearly addressed the rebuttal testimony of Mr. Haro, whose testimony addressed the direct testimony of Ms. Mantle. There was no "sandbagging" on the part of the MIEC. Nor is the MIEC "opportunistic." It is Ameren Missouri that seeks to ignore the language of the very tariff that it proposed. The clarification that Ms. Mantle and Mr. Dauphinais request is more for Ameren Missouri's benefit, since it seems to be the only party unable to understand the words of the tariff that it drafted. The MIEC, nor the Staff for that matter, substantively changed its positions in surrebuttal testimony. There is no cause to strike any part of the surrebuttal testimony of Mr. Dauphinais.

6. Ameren Missouri's chief complaint seems to be that it bears the burden of persuasion and that it should have the final word. Ameren Missouri Motion at n. 15. With both the Staff's and MIEC's consent to Ameren Missouri's Motion to

File Sur-Surrebuttal Testimony, that complaint no longer applies. Ameren Missouri will have its full and fair opportunity to respond. And this Commission will have the full benefit of all the parties' testimony on this important issue.

**WHEREFORE,** the MIEC consents to Ameren Missouri's alternative motion for leave to file testimony responsive to Mr. Dauphinais' Surrebuttal Testimony and prays that the Commission deny Ameren Missouri's Motion to Strike parts of Mr. Dauphinais' Surrebuttal and that the Commission refrain from taking live testimony that will concern this issue until the parties and the Commission have had at least 7 days to review Ameren Missouri's sur-surrebuttal testimony.

Respectfully submitted,

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**Certificate of Service**

I hereby certify that a true and correct copy of the foregoing was served, either electronically or by hand delivery or by First Class United States Mail, postage prepaid, on this **13<sup>th</sup> day of September, 2012**, to the parties of record as set out on the official Service List maintained by the Data Center of the Missouri Public Service Commission for this case.

s/ Edward F. Downey