

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

In the Matter of Union Electric)	
Company d/b/a Ameren Missouri's)	Case No. ER-2014-0258
Tariff to Increase Its Revenues for)	
Electric Service.)	

PUBLIC COUNSEL'S REPLY TO THE STAFF'S RESPONSE

COMES NOW the Missouri Office of the Public Counsel ("Public Counsel" or "OPC") and for its reply to the Staff's Response to OPC's Rate Case Expense Motion, respectfully states:

1. On April 28, 2015, Public Counsel filed its Request for an Order on Rate Case Expense and Motion for Expedited Treatment. The motion explained that the parties entered into a non-unanimous stipulation and agreement regarding, among other things, rate case expense and how the expense is to be treated in this case. Public Counsel's motion requested that the Commission order the parties to comply with the terms of the stipulation by filing the evidentiary support necessary to determine whether the final rate case expense amounts sought to be included in rates were prudently incurred by Union Electric Company d/b/a Ameren Missouri.

2. The Commission's Staff filed a response to Public Counsel's motion and argued that Public Counsel's motion "misstates the facts and violates" the stipulation, and that Public Counsel "waived its opportunity" to challenge the prudence of whatever rate case expense amounts Ameren Missouri seeks to include in rates. The Staff is wrong on both claims pursuant to the clear language of the stipulation, and as a matter of law.

3. As explained in Public Counsel’s motion, the parties agreed “that the revenue requirement in this case shall include the Company’s prudently-incurred rate case expenses for this case, calculated in accordance with Staff witness Sarah Sharpe’s position, as reflected in her direct testimony.” According to these terms, the parties specifically limited rate case expense to costs that were prudently incurred. This understanding is corroborated by Staff witness Sarah Sharpe’s direct testimony where she states that “Staff is recommending that Ameren Missouri’s rate case expenses be treated in the traditional manner; that is, the Company should be allowed an opportunity to recover in rates the full amount of reasonable and prudent rate case expenses through an expense normalization approach.” Again, just as the stipulation restricted rate case expense recovery to “prudently incurred” expenses, Ms. Sharpe’s direct testimony, upon which the stipulation relies, also recommends that the amount to be recovered in rate should be “reasonable and prudent.” These are the terms upon which Public Counsel entered into the stipulation – terms that require all rate case expenses to be prudent. Accordingly, it is necessary that the evidence supporting Ameren Missouri’s alleged rate case expense must be before the Commission, thus enabling parties to the agreement to challenge the prudence of the expense, and for the Commission to have an evidentiary basis upon which to decide the issue.

4. Public Counsel also notes that the stipulation language regarding rate case expense was modified between when the parties initially entered into the Non-Uniform Stipulation and Agreement Regarding Certain Revenue Requirement Issues on February 23, 2015, and when the parties filed the Amended Non-Uniform Stipulation and Agreement Regarding Certain Revenue Requirement Issues on March 3,

2015. The modification to the rate case expense section added the condition that the rate case expense amounts to be determined must have been “prudently incurred.” These words have meaning, and the Staff’s interpretation of the agreement renders these words meaningless.

5. Contrary to the Staff’s argument, the stipulation is in no way a waiver of Public Counsel’s opportunity to challenge the prudence of Ameren Missouri’s rate case expense, either expressly or implied. Nor can the stipulation be used to circumvent the statutory requirement that the Commission’s record supporting its ultimate decision in this case *must* be supported by competent and substantial evidence with Ameren Missouri carrying the burden of proving that the rate case expense is just and reasonable. Mo. Rev. Stat. § 393.150.2; *Friendship Village of South County v. Public Service Commission*, 907 S.W.2d 339 (Mo. App. 1995).

6. The Staff incorrectly seeks to shift the burden of proof in this case away from Ameren Missouri and onto ratepayers, despite the fact that it is Ameren Missouri, and not consumers, that seeks to include an additional \$1.2 million to the rate case expense that Staff initially deemed reasonable through Ms. Sharpe’s testimony. Ameren Missouri now seeks to more than *double* the rate case amount identified as reasonable by Ms. Sharpe, and the Staff now seeks to prohibit any party from questioning this amount, which is a clear violation of Public Counsel’s right to challenge prudence as contemplated by the stipulation.

WHEREFORE, the Office of the Public Counsel respectfully offers this reply to the Staff’s response and urges the Commission to order Ameren Missouri to file the supporting documentation as a late-filed exhibit.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all counsel of record this 28th day of April 2015.

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