

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

In the Matter of a Repository File Concerning)
Staff's Review of the Commission's Fuel) File No. EW-2011-0139
Adjustment Clause.)

**JOINT PROPOSAL OF THE ELECTRICAL CORPORATIONS FOR
COMPLETING THE COMMISSION'S REVIEW OF THE
FUEL ADJUSTMENT CLAUSE RULES**

COMES NOW Union Electric Company d/b/a Ameren Missouri (Ameren Missouri), Kansas City Power & Light Company (KCP&L) and Kansas City Power & Light--Greater Missouri Operations Company (GMO) and The Empire District Electric Company (Empire) (Ameren Missouri, KCP&L, GMO and Empire being collectively referred to herein as the Electrical Corporations), and hereby propose a process and schedule for completion of the review of the Commission's fuel adjustment clause (FAC) rules contemplated by 4 CSR 240-3.161(17) and 4 CSR 240-20.090(14). In support of said proposal, the Electrical Corporations state as follows:

1. The above-cited rules state that the Commission is to "review the effectiveness of [its fuel adjustment clause rules] by December 31, 2010." The rules do not set a deadline by which the review is to be completed.

2. The Commission initiated the required review over four years ago by issuing a Notice on November 12, 2010, followed on November 23, 2010 by its *Order Opening a Repository File Concerning Staff's Review of the Commission's Fuel Adjustment Clause Rules* (Order). The Order requested comments and suggestions on how the effectiveness of the Commission's fuel adjustment clause rules could be improved, and requested that such comments be filed by March 1, 2011.

3. Ameren Missouri, the Staff and the Missouri Industrial Energy Consumers (MIEC) timely filed comments, as requested. Ameren Missouri's comments indicated its view

that the rules had generally been effective, but also suggested the Commission consider specific changes, which were delineated by tracking the suggestions against the existing language of the rules. The Staff's comments identified seven "concerns" with 4 CSR 240-20.090 and two with 4 CSR 240-3.161, and indicated that if the Commission should decide to hold workshops it might identify additional concerns. The Electrical Corporations viewed Staff's concerns to be mostly in the nature of "housekeeping" or "clarifications." MIEC's comments contained a discussion of MIEC's perspectives about incentives and a recommendation about monitoring heat rates and other metrics relating to the operation of generating plants. MIEC also suggested further consideration relating to sharing percentages and jurisdictional allocations.

4. The Commission did not take any further action respecting a review of the rules until just over three years later when, on March 27, 2014, it directed the Staff to file a status report. Staff complied on April 3, 2014, indicating that it expected to provide some proposed rule changes to the Commission in October of this year. Staff did not provide proposed rule changes to the Commission in October, but on December 2, 2014, filed another status report indicating that it expected to provide proposed changes to the Commission by no later than mid-February 2015.

5. The next day (December 3), the Staff provided a tracked-changes version of both 4 CSR 240-3.161 and 20.090 to a number of stakeholders, including the Electrical Corporations, and requested "feedback or suggested changes" by just 20 days later, December 23, 2014. While the Electrical Corporations are in the very early stages of their review of the Staff's draft changes, it is clear that the draft changes are quite extensive. They will require substantial review and consideration by many Electrical Corporations personnel, including accountants, risk management personnel, trading personnel, personnel involved in fuel modeling, personnel involved in generation operations, personnel involved in fuel procurement, personnel involved in

emission allowances management, attorneys, and others. The Staff's proposed changes go well beyond the much more limited scope of possible changes addressed in the 2011 comments filed by Ameren Missouri, the Staff and MIEC.

6. The Electrical Corporations take no issue with the fact that the Commission did not proceed with its review after comments were filed in 2011 until the Commission directed its Staff to file a status report earlier in 2014, or with the fact that the Staff did not prepare or propose to either the Commission or stakeholders like the Electrical Corporations any changes to the rules until just recently. The Electrical Corporations are fully aware of the significant press of business at the Commission and for the Staff, arising from regulatory matters involving public utilities regulated by the Commission, together with other Commission and Staff responsibilities.

7. The Electrical Corporations also recognize that Staff's request for feedback or suggestions on the extensive changes proposed by the Staff, just 20 days after those changes became known, is just that – a request – and that the Commission itself has adopted no process by which to further its review of the rules. However, the Electrical Corporations desire to be in a position to provide meaningful and thoughtful input on possible changes to these rules, as has been their routine practice in similar proceedings in the past. Simply stated, the Electrical Corporations are not in a position to do so in a matter of just 20 days, nor should they be expected to do so given the very significant amount of time that has passed not just since the Commission began its review in this docket, but even since the Staff was first directed nine months ago to provide a status report.

8. While the Electrical Corporations recognize that there is never a "perfect time" to engage in an undertaking as significant as reviewing and considering extensive changes to rules such as these (we would note that the tracked-changes version of Staff's proposed changes cover approximately 30 single-spaced pages), certainly to do so on a compressed timeline while all

three Electrical Corporations are in the middle of general rate cases poses substantial difficulty for the Electrical Corporations, and probably for the Staff and some other stakeholders. Just a few days ago, Ameren Missouri received a very large Staff revenue requirement report and direct testimony sponsored by more than 25 Staff witnesses and more than 10 other non-Staff witnesses. On December 19, Ameren Missouri will receive direct rate design testimony in its rate case. From December into early March, the activity in Ameren Missouri's rate case will be at its peak, including preparing rebuttal and surrebuttal testimonies, handling 16 local public hearings and settlement conferences, engaging in discovery, evidentiary hearing preparation and participating in three weeks of evidentiary hearings starting February 23, 2015. Empire will be engaged in similar activities starting January 29 culminating in two weeks of evidentiary hearings starting on April 6, 2015, and KCP&L will also be engaged in similar activities starting in approximately mid-March, with it probable that two to three weeks of evidentiary hearings will occur in approximately June of 2015.¹

9. The Electrical Corporations are not suggesting that the process for review of the rules simply come to a halt until after the evidentiary hearings in these three rate cases are concluded, but are suggesting that the review will benefit greatly from an orderly process to occur over a period extending into the third quarter of 2015. This will afford not just the Electrical Corporations, but also other stakeholders a fair opportunity to thoughtfully consider the Staff's proposed changes, which were developed over many months. It will also allow for significant discussions about those proposed changes and the FAC rules in general through a series of workshops, as has been the typical practice at the Commission over the past several years.

¹ The procedural schedule in KCP&L's rate case has not yet been set, but based on the date the case was filed the peak of activities in its case will likely commence in March and continue into June.

10. We would note that all of the Electrical Corporations and other stakeholders have been engaged in a workshop process involving a much shorter and less complex rule, 4 CSR 240-3.105 (the electrical corporation certificate of public convenience and necessity (CCN) rule), since early September and that it is anticipated that the CCN workshop process will extend into February 2015—a workshop process that will span a total of about six months. As the Staff indicated in its *Motion to Extend Date for Filing Staff Recommendation* in the CCN rule workshop docket, the CCN workshops have been productive and worthwhile. We would hope a productive process can also occur respecting the FAC rules, but to engage in such a process, particularly given the scope and complexity of the FAC rules, will certainly take time.

11. Against that backdrop, the Electrical Corporations propose the following:

- a. Stakeholders to provide written feedback to Staff on Staff's proposed changes by January 23, 2015.
- b. Workshops to be held in March, May, and July 2015, with Staff and any other stakeholder desiring to do so to make a recommendation to the Commission by August 15, 2015, regarding whether additional workshops are warranted. If further workshops are not scheduled after August 15, 2015, Staff to provide a recommendation regarding changes to the FAC rules by September 15, 2015.

12. This entire process would occur over a period of just over nine months, which is reasonable considering the time that has been taken thus far to develop the very significant changes that the Staff has proposed to stakeholders and as compared to other workshop processes involving much shorter and less complex rules.

WHEREFORE, the Electrical Corporations hereby request that the Commission issue an order as follows: a. directing the Staff to advise stakeholders of the opportunity to provide written feedback to the Staff by January 23, 2015, on the draft FAC rules circulated by the Staff

on December 3, 2014; b. directing Staff to schedule a series of workshops to occur in March, May, and July 2015, on dates and at times to be determined by the Staff after consultation with stakeholders; and c. setting a deadline of August 15, 2015, for the Staff or other stakeholders to recommend any further workshops, it being contemplated that if further workshops are not held then the Staff would provide a recommendation regarding possible changes to the FAC rules by September 15, 2015.

Dated: December 16, 2014.

Wendy K. Tatro, Bar #60261
Director and Assistant General Counsel
Union Electric Company
d/b/a Ameren Missouri
P.O. Box 66149 (MC 1310)
1901 Chouteau Avenue
St. Louis, MO 63166-6149
(T) 314-554-2514
314-554-3484
(F) 314-554-4014
AmerenMOService@ameren.com

Dean L. Cooper MBE #36592
BRYDON, SWEARENGEN & ENGLAND
P.C.
312 E. Capitol Avenue
P. O. Box 456
Jefferson City, MO 65102
(573) 635-7166 voice
Email: dcooper@brydonlaw.com

**ATTORNEYS FOR THE EMPIRE
DISTRICT ELECTRIC COMPANY**

SMITH LEWIS, LLP

/s/ James B. Lowery
James B. Lowery, #40503
Suite 200, City Centre Building
111 South Ninth Street
P.O. Box 918
Columbia, MO 65205-0918
Phone (573) 443-3141
Facsimile (573) 442-6686
lowery@smithlewis.com

**ATTORNEYS FOR UNION ELECTRIC
COMPANY D/B/A AMEREN MISSOURI**

Robert J. Hack, MBN 36496
Phone: (816) 556-2791
E-mail: rob.hack@kcpl.com
Roger W. Steiner, MBN 39586
Phone: (816) 556-2314
E-mail: roger.steiner@kcpl.com
Kansas City Power & Light Company
1200 Main – 16th Floor
Kansas City, Missouri 64105
Fax: (816) 556-2787

**ATTORNEYS FOR KANSAS CITY
POWER & LIGHT COMPANY AND
KCP&L GREATER MISSOURI
OPERATIONS COMPANY**

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was served on the Staff and Office of the Public Counsel by electronic transmission, facsimile or e-mail on this 16th day of December, 2014.

/s/ James B. Lowery _____
James B. Lowery