

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

In the Matter of the Second Prudence Review of	)	
Costs Subject to the Commission-Approved Fuel	)	Case No. EO-2012-0074
Adjustment Clause for Union Electric Company	)	
d/b/a Ameren Missouri.	)	

MIEC’S REPLY TO AMEREN MISSOURI’S RESPONSE

Comes now the Missouri Industrial Energy Consumers (“MIEC”), and for its Reply to Ameren Missouri’s Response to MIEC’s Reply to Ameren Missouri’s Early Request for Hearing, states as follows:

1. Counsel for MIEC apologizes to the Commission and the parties that its November 23, 2011 filing in this case was out of time. Counsel did not intend to interfere with Thanksgiving holiday plans, and regrets the inconvenience caused by the late filing.
2. Regardless of the weight given to MIEC’s November 23, 2011 filing, the Commission can and should reject Ameren Missouri’s request that the Commission re-hear all of the same facts and issues that it previously heard in Case No. EO-2010-0255. Ameren Missouri’s request is impermissible under Missouri law, and the granting of this request would result in a great waste of time and resources.
3. In Case No. EO-2010-0255, the Commission found that Ameren Missouri acted imprudently when it excluded revenues derived from its AEP and Wabash contracts from its calculation of off-system sales revenue under its fuel adjustment clause during collection periods one and two.
4. Ameren Missouri now asks the Commission to re-adjudicate the exact same issue and all of the same facts in this case for collection periods three through five.

5. The only difference between the two cases relates to the dates during which Ameren Missouri collected the subject revenues.¹

6. Not only is the request impermissible under 386.550 RSMo and the common law doctrines of res judicata and collateral estoppel, but a rehearing of all of the same facts and issues that were heard in Case No. EO-2010-0255 (with the only relevant distinction being the dates during which the imprudently derived revenues were collected) would constitute an enormous waste of time and resources for the Commission and all involved parties.

WHEREFORE, the MIEC requests that Ameren Missouri's request for hearing be denied.

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¹ The FAC Tariff language was also modified during the operative period. However, the modification does not provide a basis to re-hear the case, as the modification provides more specifically restrictive language than was provided by the Tariff in Case No. EO-2010-0255.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was sent by electronic mail this 7th day of December, 2011, to the parties on the Commission's service list in this case.

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