

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

In re: Union Electric Company's 2011)
Utility Resource Filing Pursuant to) File No. EO-2011-0271
4 CSR 240 – Chapter 22.)

Missouri Department of Natural Resources' Reply Brief

I. Introduction

Four years ago, in Case No. EO-2007-0409, the Commission found Ameren's 2008 Integrated Resource Plan (IRP) did not comply with the IRP rules, but did not order Ameren to produce a compliant IRP filing.¹ Now four years later, the Commission is again presented with a deficient Ameren IRP. MDNR encourages the Commission, when deciding whether to order Ameren to remedy the alleged deficiencies in both the IRP and the Notice of Change in Preferred Plan, to consider the message it will be sending regarding both the integrity of the planning rules and the role of energy efficiency in utility planning.

It is now undisputed, based on Ameren's own analysis, that an integrated resource plan with a significant level of Demand Side Management (DSM) is the least costly means for Ameren to meet its customers' energy needs. Yet, Ameren still selected against cost-effective

¹ EO-2007-0409 Report & Order, p. 12

DSM by interpreting “just and reasonable rates” as the purview of its shareholders rather than its customers. MDNR asks the Commission to recall both its final order and the dissents from that Order. Regarding modeling of demand-side management, the Commission stated:

AmerenUE contends it has already modeled a very aggressive approach in this IRP filing, however, the Commission agrees that demand-side management is vitally important and may be effective enough to reduce the need for development of costly supply-side alternatives. Therefore, the Commission directs AmerenUE to model an even more aggressive approach to encourage participation in demand-side management programs in its next IRP filing².

MDNR suggests that **this time** the Commission should require Ameren to fix its deficiencies now, mindful of these words in the dissenting opinion of then-Chairman Clayton and then-Commissioner Gunn that

This deferral of compliance sends the wrong message to not only the parties interested in these issues in this case, but in all current and future IRP dockets. These Commissioners would require AmerenUE to correct the deficiencies in its 2008 IRP now, rather than allow the company until its next IRP filing to get it right.”³

Ameren’s management team devised an approach which rejected all but a smattering of energy efficiency programs, despite the fact that their own analysis clearly identified demand side management as the lowest PVRR option, and selected a plan that will cost ratepayers at least \$1.5 billion more

² Id., p. 7.

³ EO-2007-0409 Dissenting Opinion of Chairman Robert M. Clayton III and Commissioner Kevin D. Gunn, February 19, 2009, p. 1.

over the next 20 years than the lowest PVRR option.⁴ OPC argued in its brief that if the Commission were to again allow “incomplete planning and improperly manipulated results” with only a directive to do better next time, that neither the Commission nor Ameren’s customers could have any confidence that Ameren’s planning would result in safe, reliable and efficient service at just and reasonable rates.⁵ MDNR agrees.

II. Scope of Commission Review of IRP

Ameren argues that the Commission’s role should be limited to “determin(ing) if the Company undertook the steps in the planning process that are required by the IRP rules.”⁶ However, such a limited scope of review would render the role of the Staff, as described in 4 CSR 240-22.080(7), meaningless. That rule requires that the Staff file a report of

any major deficiencies in the methodologies or analyses required to be performed by this chapter and any other deficiencies which, in its limited review, the staff determines would cause the electric utility's resource acquisition strategy to fail to meet the requirements identified in 4 CSR 240-22.010(2)(A)-(C).

Other parties are afforded this same opportunity by 4 CSR 240-22.080(8).

The IRP rules are clear that the Commission can examine more than just whether or not Ameren skipped steps in the analysis. The Commission can and should consider the numerous deficiencies identified by Staff, OPC,

⁴ Ex. 1 Ameren IRP, Ch. 10, Appendix B, pages 3 and 5

⁵ OPC Brief p. 3

⁶ Ameren Initial Brief, p. 2

MDNR, NRDC and other parties where Ameren’s analysis used flawed methodology and might otherwise undermine IRP planning’s fundamental objective. The Commission should consider all 57 alleged deficiencies in its review rather than merely focusing on the two issues that Ameren suggests.⁷ Ameren characterizes the sum of the deficiencies identified by Staff and other parties as merely arguing that Ameren used “incorrect values”⁸ and that the Company should have used other values instead. This characterization ignores the myriad deficiencies in the parties’ reports and comments which identified methodological problems, missing analyses, unfulfilled provisions of a past stipulation and agreement, and a variety of other Ameren deficiencies that undermine the fundamental objective of the resource planning process.

III. “Safe, Reliable & Efficient Service”

The IRP rules are clear that “the fundamental objective of the resource planning process at electric utilities shall be to provide the public with energy services that are safe, reliable and efficient, at just and reasonable rates . . . in a manner that serves the public interest”⁹ Ameren claims that this is exactly what it did through the planning process.¹⁰ However, it is difficult to

⁷ Id. p. 5

⁸ Id.

⁹ 4 CSR 240-22.010(2)

¹⁰ Ameren Initial Brief, p. 12

see how Ameren can “provide the public with energy services that are ... efficient” when Ameren management selected a plan with a multi-billion dollar price tag higher than the lowest PVRR plan, then notified the Commission that it was switching to a plan that was even less efficient than the plan selected in its IRP. MDNR requests the Commission consider the extent to which Ameren’s tortured interpretation of the IRP rules, its all-or-nothing approach to DSM cost recovery which avoided any meaningful contingency planning analysis, and its constructed terminology violate the fundamental objective of the rules and undermine the integrity of the planning process.¹¹

Ameren’s IRP will not result in “efficient service” because the company will not be making efficient choices between supply side and demand side resources. The company will forego opportunities that would be both lower cost and improve its reliability; by choosing to not support programs that will lower system level demand and will increase its expenditures to maintain a level of service expected by its customers. In the Notification of Change in Preferred Plan, the Company has indicated a switch to purchased power,¹² which presents even more uncertainty both in price and availability. With an adequate DSM portfolio, the company could reduce the likelihood of outages

¹¹ Ex. 18 MDNR Comments pp. 8-9 & pp. 12-14, MDNR Opening Statement, Tr. p. 34

¹² Notice of Change Preferred Plan, EO-2012-0127

and the need for riskier resource options. Additionally, an adequate DSM portfolio consisting of energy efficiency and demand response programs would not only help customers use energy more efficiently, but would also be consistent with moving toward Section 393.1075 RSMo.'s goal of implementing all cost-effective demand-side savings, and Section 393.1040 RSMo.'s statement of the policy of this State that electrical corporations should be encouraged to develop and administer energy efficiency initiatives that reduce the annual growth in energy consumption and the need to build additional electric generation capacity.

IV. “Just and Reasonable Rates”

According to Ameren, “[T]he public interest is a balancing principle between customers expecting safe and adequate service and the utility having access to just and reasonable rates including [the] opportunity to earn a reasonable return on its investments.”¹³ The “balance” Ameren appears to advocate would function more as a hijacking of the customer’s interest in “just and reasonable rates”, since the selection of a preferred resource plan by Ameren’s management accounts only for Ameren’s shareholders’ economic interests. MDNR takes the position that the term “just and reasonable rates” in the context of resource planning’s fundamental objective is meant to provide fairness to both the utility and the customers. There should be a

¹³ Tr, p. 61, ln. 13-17.

balance between an increased customer cost of \$1.5billion and a decreased shareholder return of .02-.07%.¹⁴

Furthermore, Ameren's analysis of the "constraint" that led them to inject the shareholders' interest as paramount was deficient. As MDNR has demonstrated in previous filings, the very limited analysis presented by Ameren purporting to demonstrate that it was constrained from selecting the low cost plan falls far short of the requirements set forth in 4 CSR 240-22.010(2)(C). The company assumes that the Commission will never approve a DSIM mechanism that is acceptable to the Company. This assumption is arbitrary and it is unsupportable, especially over the full 20-year planning horizon. Its analysis is limited to a specific case of the cost recovery decision factor in which Ameren deems that it is known with certainty that no acceptable DSIM mechanism is available to the company. The company shows that in this special circumstance, the company's shareholders experience financial loss if demand-side programs are implemented. Given Ameren's definition of the decision factor, the company is required by the rule to identify and analyze tradeoffs that would need to be considered if the company were faced with future decisions in which it knew with certainty

¹⁴ See Ex. 1 Ameren IRP, Chapter 10, Appendix B, pages 3 and 5, and Ex. 5 Michels pp. 12, reference to "ROE reductions of 20-75 basis points in the near term".

that a specific DSIM cost recovery mechanism has been approved by the Commission; but Ameren fails to provide this analysis.

V. Conclusion

WHEREFORE, MDNR respectfully urges the Commission to find that Ameren's IRP, as well as its Notification of Change in Preferred Plan do not comply with the IRP rules and order it to file a compliant Integrated Resource Plan.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been e-mailed to all
counsel of record this 21st day of February 2012.

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