

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

In the Matter of the Tariff Filings of Union)	<u>Case No. ER-2010-0036</u>
Electric Company, d/b/a AmerenUE, to Increase)	
Its Revenues for Retail Electric Service.)	

**AMERENUE’S MOTION TO MODIFY ORDER ADMITTING
TRUE-UP EXHIBITS**

COMES NOW Union Electric Company d/b/a AmerenUE, and moves for an order modifying the Order Admitting True-up Exhibits Into Evidence (the Order) issued by delegation on April 27, 2010. In support of its Motion, AmerenUE states as follows:

1. The Order admits Exhibit 244 (the Staff’s Revised True-up Reconciliation) into evidence “as modified by MIEC’s April 26 pleading.”
2. MIEC’s April 26 pleading states that “MIEC Witness Selecky’s schedules did not reflect . . . [a MIEC witness Dunkel] proposed adjustment.” That statement is true, and in fact that statement is the reason the Order should be modified.
3. MIEC witness Selecky calculated mass property depreciation rates and expense (\$52,354,005) for the Company’s steam production plant. Sch. JTS-5 to Ex. 403 (Selecky direct). After some minor modifications, he updated his proposed rates and expense in his surrebuttal testimony and presented his final “proposed production depreciation rates utilizing the whole life [mass property] method” Ex. 406, p. 22, l. 14-15; Sch. JTS-13, p. 1 of 2, to Ex. 406 (Mr. Selecky’s updated depreciation expense for the steam production plants is now \$51,458,715).

4. MIEC witness Dunkel, in his rebuttal testimony filed several weeks before Mr. Selecky proposed his final mass property rates for the steam production plants, proposed an adjustment to *the Staff's* proposed depreciation expense for steam production:

The primary purpose of this rebuttal testimony is to propose an adjustment to the Staff proposed depreciation rates to conform to the Commission policy pertaining to terminal net salvage. I propose removal of the \$5.8 million in annual accruals that Staff included for future steam production terminal net salvage.

5. In its April 26 pleading, MIEC attempts to amend Mr. Selecky's testimony by adjusting Mr. Selecky's proposed depreciation expense for the steam production plants downward by \$3.8 million, to account for an adjustment that MIEC witness Dunkel testified should be made to *the Staff's* proposed depreciation expense, but for which there is *no evidence of record* to support making it to Mr. Selecky's depreciation expense.¹

6. The only evidence of record is that Mr. Selecky, if mass property rates are used for the steam production plants, recommends the rates and expense for the steam production plants shown on his Schedule JTS-13. This issue will be moot if the Commission uses the life span approach, as advocated by the Company, or alternatively if the Commission were to use the Staff's recommended depreciation expense for steam production. Regardless, MIEC cannot file pleadings after the record in the case has closed to manufacture evidence that lowers its witness's recommendation and that amends its witness's testimony.

7. Consequently, the Order should be modified by striking the phrase “,as modified by MIEC's April 26 pleading” on page 1 of the Order, and also by striking that part of ordering paragraph 3 on page 2 of the Order after the word “evidence.”

¹ For the reasons outlined in the initial and reply briefs of the Company, MIEC witness Dunkel's adjustment is improper to either the Staff's or any other mass property depreciation rates.

WHEREFORE, the Company prays that the Order be modified as hereinabove described.

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 3rd day of May, 2010.

/s/ James B. Lowery