

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

In the Matter of the Consideration of Adoption       )  
Of the PURPA Section 111(d)(13) Fossil Fuel       )       Case No. EO-2006-0495  
Generation Efficiency Standard as Required by       )  
Section 1251 of the Energy Policy Act of 2005.       )

**RESPONSE OF AMERENUE**

COMES NOW Union Electric Company d/b/a AmerenUE (AmerenUE) and for its response to the prepared list of questions set forth in the Commission's *Order Sustaining Motion for Late Filing of Procedural Schedule, Setting Technical Conference, and Directing Filing*, states as follows:

**I.       BACKGROUND**

1.       On August 8, 2005, the Energy Policy Act of 2005 (EPAAct 2005) became law and amended the Public Utilities Regulatory Policies Act of 1978 (PURPA). EPAAct 2005 added five new standards within PURPA §111(d). Each standard must be considered by state commissions and a determination made of whether or not to adopt the standard. The standards to be considered involve net metering, interconnection standards, fuel sources, fossil fuel generation efficiency and time-based metering. PURPA §111(b) states that consideration is to include public notice and a hearing.

2.       As an exception to the requirement that a state commission consider a standard, PURPA ¶112(a) provides that state commissions do not have to consider a standard if, prior to the enactment of EPAAct 2005, the state has implemented the standard or a comparable standard, if the state commission has held a proceeding considering the standard or a comparable standard or if the state's legislature has voted on the implementation of the standard or a comparable standard.

3. On June 23, 2006, the Missouri Public Service Commission (Commission) established this case to consider and make a determination as to whether to adopt the fossil fuel generation efficiency standard set forth in Section 1251 of EPAct 2005. Specifically, the fossil fuel generation efficiency standard, the standard in question, requires the Commission to make a determination as to whether

Each electric utility shall develop and implement a 10-year plan to increase the efficiency of its fossil fuel generation. (PURPA §111(d)(13)).

4. On August 17, 2006, the Commission issued an *Order Sustaining Motion for Late Filing of Procedural Schedule, Setting Technical Conference, and Directing Filing*. This order requested all parties to file responses to a prepared list of questions no later than September 15, 2006. The questions posed are as follows:

**Question:** Can this case be closed based on “prior state actions” as provided in Section 1251(b)(3) of the Act [16 U.S.C. 2622(d)], and why or why not?

**Question:** Can this case be consolidated with any, some or all of the following cases – EO-2006-0493, EO-2006-0494, EO-2006-0496 and EO-2006-0497 – because the issues addressed in one or more of these cases are similar, and why or why not?

**Question:** What type of proceeding (e.g., rulemaking, rate case implementation, etc.) should the Commission use to address the issues in this case in order to meet the Public Utility Regulatory Policies Act of 1978 (“PUPRA”) Section 111(a) and 111(b) “consideration and determination” requirements [16 U.S.C. 2621(a), 2621(b)], and why?

## **II. COMMISSION CONSIDERATION OF FOSSIL FUEL GENERATION EFFICIENCY STANDARD**

**A. Question -** Can this case be closed based on “prior state actions” provided in Section 1251(b)(3) of the Act [16 U.S.C. 2622(d)], and why or why not?

5. AmerenUE believes that this case may be closed by the Commission without further consideration of the above cited standard because of prior state action. The

Commission's Electric Utility Resource Planning rules establish minimum standards for the analysis of supply-side resources, including refurbishment of existing generating plants. 4 CSR 240-22.040. This section of the rule is set out below. Operational efficiency is a key screening measure in determining supply-side resource options, including options for increasing efficiency in existing plants. As a result of the comprehensive rules and the extensive proceedings conducted to evaluate the utility resource plan, there is already a process by which the Commission can evaluate an electric utility's plans to increase the efficiency of its fossil fuel generation.

#### **4 CSR 240-22.040 Supply-Side Resource Analysis**

*PURPOSE: This rule establishes minimum standards for the scope and level of detail required in supply-side resource analysis. (1) The analysis of supply-side resources shall begin with the identification of a variety of potential supply-side resource options which the utility can reasonably expect to develop and implement solely through its own resources or for which it will be a major participant. These options include new plants using existing generation technologies; new plants using new generation technologies; life extension and refurbishment at existing generating plants; enhancement of the emission controls at existing or new generating plants; purchased power from utility sources, cogenerators or independent power producers; ...*

6. Significantly, as the prior state action exception in PURPA §112(a) has been met, no hearing is required. The Commission is not obligated to undertake any further consideration of this standard and should make a finding as such and close the case.

**B. Question-** Can this case be consolidated with any, some or all of the following cases – EO-2006-0493, EO-2006-0494, EO-2006-0496 and EO-2006-0497 – because the issues addressed in one or more of these cases are similar, and why or why not?

7. AmerenUE feels strongly that the prior state action exception applies to this standard and, accordingly, that the Commission need do nothing more than make a finding stating the same.

**C. Question:** What type of proceeding (e.g., rulemaking, rate case implementation, etc.) should the Commission use to address the issues in this case in order to meet the Public Utility Regulatory Policies Act of 1978 (“PURPA”) Section 111(a) and 111(b) “consideration and determination” requirements [16 U.S.C. 2621(a), 2621(b)], and why?

8. Again, if the Commission makes a finding that the prior state action exception applies, this question become unnecessary. AmerenUE feels closing this case is the appropriate course of action.

WHEREFORE, AmerenUE respectfully requests that the Commission accept this Response to its Order of August 17, 2006 and further, that the Commission find it has no obligation to consider the interconnection standard found within Section 1251 of EPAct 2005 because of prior state action on this topic.

Respectfully submitted,

UNION ELECTRIC COMPANY  
d/b/a AmerenUE

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Dated: September 15, 2006

## CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 15<sup>th</sup> day of September, 2006.

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