

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

In the Matter of an Investigation into the	)	
Coordination of State and Federal Regulatory	)	
Policies for Facilitating the Deployment of all	)	File No. EW-2010-0187
Cost-Effective Demand-Side Savings to	)	
Electric Customers of All Classes Consistent	)	
With the Public Interest.	)	

**AMERENUE’S RESPONSE TO THE COMMISSION ORDER TEMPORARILY  
PROHIBITING THE OPERATION OF AGGREGATORS OF RETAIL CUSTOMERS**

**COMES NOW** Union Electric Company d/b/a AmerenUE (AmerenUE) and hereby responds to the Commission’s Order Temporarily Prohibiting the Operation of Aggregators of Retail Customers (ARCs) which was issued on March 31, 2010. For its Response, the Company states as follows:

On March 31, 2010, the Commission issued its Order Temporarily Prohibiting the Operation of Aggregators of Retail Customers in which the Commission ordered that “[t]he participants shall file additional comments regarding the issues attending ARC operation, in general, and ARC operation in Missouri, in particular, by April 9, 2010.”

In its March 31, 2010 order, the Commission listed nine questions to be addressed in this docket. Those questions, and AmerenUE’s input regarding each, are provided below:

**1. Does any Missouri statute, case law or regulation prohibit or restrict electric utility customers from participating through an ARC in demand response bidding programs?**

Other than the Commission’s March 31, 2010 Order Temporarily Prohibiting the Operation of Aggregators of Retail Customers, AmerenUE is not aware of any specific statute, regulation or decision (of the Commission or of a court) which prohibits or restricts electric utility customers from participating through an ARC in demand response bidding

programs. Since regional transmission organizations and ARCs were not in existence when the applicable statutes were enacted, this activity was not contemplated.

**2. Does a single retail customer or ARC act as a public utility subject to the Commission's regulation if it bids demand response into the SPP or MISO market?**

It is not clear whether a single retail customer or ARC acts as a public utility or is otherwise subject to the Commission's regulation if it bids demand response into the SPP or MISO market. Regional transmission organizations and ARCs were not in existence when the statutes defining the scope of the Commission's jurisdiction over public utilities were enacted, and there are no Missouri cases that determine these issues.

**3. Does the right to furnish retail electric service under section 393.170 give a certificated utility an exclusive right to benefit from demand response activities of its retail customers through an ARC?**

Missouri statutes and case law do not suggest that a certificated utility has an exclusive right to benefit from demand response activities of its customers.

**4. How would a certificated utility and its retail customers be affected if a single retail customer or an ARC bid demand response directly into the SPP or MISO market?**

In the case of AmerenUE, the level of impact upon the Company and ultimately its retail customers is uncertain and dependent in large part upon the specific terms of the MISO tariff (as ultimately approved by Federal Energy Regulatory Commission) and administration of the associated business practice manuals regarding ARC activity, the level and complexity of the Marginal Foregone Retail Rate (MFRR) (if any) established

by this Commission and, importantly, the development and execution of data exchange protocols between any such ARCs and AmerenUE's reliability functions.

Dependent upon the above, potential impacts could include:

- An under-recovery of costs associated with serving this load to the extent that the MFRR (if any) is not established at a level sufficient to fully reimburse the Company for the lost revenue associated with any such customer curtailments. Failure to set an MFRR would almost certainly cause cost under-recovery and adversely impact other customers.
- An increased level of complexity in the development of daily and annual load forecasts to account for the reconstitution of curtailed loads.
- An increased complexity in the recording and reporting of customer loads, as the reconstitution of loads by MISO will necessarily create a difference between the amounts settled with the MISO and the amount of metered customer loads.
- An incremental need for communication between ARCs and the Company's reliability functions to ensure that sufficient information regarding customer demand response clearing and actual curtailments is provided to the load serving entity (LSE), transmission operator and local balancing authority to ensure that the necessary reliability assessments and planning roles can be performed in the applicable time frame. To the extent that such communications are not provided for via the MISO tariff, local and regional reliability could be negatively affected.
- A need for monitoring, verification and enforcement that the ARC complies with MISO directives on curtailment and that the amount of actual load curtailment is consistent with the amount called for by MISO. Failure to implement procedures for verification could result in "free riders" and negatively impact local and regional reliability.

**5. What would be the effect on utility rate design if a single retail customer or an ARC bid demand response directly into SPP's or MISO's organized energy market?**

To the extent that the utility experienced a revenue shortfall or increased costs associated with the demand response bid[s], those costs would have to be recovered from other customers, resulting in a subsidization. This subsidization could be mitigated or

eliminated through changes in the utility's rate design that ensure all costs of demand response bids are borne by customers whose activity creates the costs.

**6. What would be the effect on utility revenue collection if a single retail customer or an ARC bid demand response directly into SPP's or MISO's organized energy market?**

To the extent that the MFRR (if any) is not established at a level sufficient to fully reimburse the Company for the lost revenue associated with any such customer curtailments, the utility would experience a shortfall in revenue equal to such deficiency.

It should be noted here, that should the Commission, in its role as the relevant electric retail regulatory authority (RERRA) under the MISO tariff, take an action which specifically permits ARC activity, but not establish an MFRR, then under the MISO tariff the MFRR is set to zero, and the Company would not receive any reimbursement for lost revenue. Consequently, if the Commission permits ARC activity it is very important that it concurrently set an appropriate MFRR.

**7. How would a utility's long-term load forecasting process change if a single retail customer or an ARC bid demand response directly into SPP's or MISO's organized energy market?**

If a single retail customer or an ARC bid demand response directly into SPP's or MISO's organized energy market, the utility's long-term load forecasting process would become incrementally more complicated. In AmerenUE's case, this complication would arise from the difference created by the reconstitution of load between MISO settlement data and actual metered data that AmerenUE uses for load forecasting.

**8. How would a utility's budgeting process change if a single retail customer or an ARC bids demand response directly into SPP's or MISO's organized energy market?**

AmerenUE does not anticipate that demand response bidding would create significant budgeting problems unless and until the amount of demand response became more material than we currently anticipate. However, to the extent that such activity resulted in an under-recovery of revenues or increased costs, such items would need to be accounted for. Further, to the extent that MFRR revenue was received in lieu of customer retail revenue, accounting practices would have to be reviewed and potentially modified to ensure that proper accounting occurred.

**9. Are there any other consequences of allowing participation in demand response programs by a single retail customer or an ARC?**

AmerenUE would offer the following as other considerations that are relevant to this proceeding:

- a. AmerenUE utilizes an integrated resource planning process, which addresses energy efficiency and demand response resources. To the extent that AmerenUE's customers participate in the MISO market via ARCs, it will be necessary to understand how such activity may impact future resource planning and to properly account for this participation in future IRPs.
- b. The MISO tariff and business practices may not provide sufficient detail in regard to the customer/ARC and ARC/LSE relationship, which may warrant the establishment of certain administrative rules to protect retail customers. For example, AmerenUE, as the LSE is asked to verify customer specific

information, including addresses, and account numbers. However, AmerenUE is not provided with a means to confirm that the customer has authorized the release of this information to any third party, including the MISO or the ARC.

Similarly, the Company is uncertain as to how to address the possibility that more than one ARC could register the same customer, or the verification of customers who switch from one ARC to another. These and other administrative issues will have to be resolved if ARCs are permitted to operate in Missouri.

The Commission may wish to consider an ARC registration or certification process to ensure consumer protections and to define the business relationship between the ARC and its customers as well as the ARC and AmerenUE. Such registration could include specific criteria to ensure the ARC creditworthiness, requirements to protect the confidentiality of customer data, procedures for adding or removing customers from the aggregation group, the establishment of the MFRR, and communication and meter data management protocols between the ARC and AmerenUE, among other requirements.

- c. MISO tariff and business practices do not adequately address the impact of ARCs on either operational or long term planning. If an ARC bids in load as Operating Reserve- Supplemental, MISO does not consider the impact of the ARC load reduction on resultant power flows in its security constrained economic dispatch algorithm. Hence the curtailment of ARC load and the

eventual restoration of the load can create reliability problems on the system that are not considered by MISO in its dispatch.

The impact of the ARC load is also not integrated into the long term planning models. While initially the amount of ARC load in the MISO footprint may be small, procedures should be put in place to address the planning impacts of ARC load before it becomes a reliability issue.

The impact of ARC load on both short-term operational and long- term planning is exacerbated if the ARC portfolio of customers changes frequently, effectively creating a gap in the “known resources” available to meet reliability requirements.

Respectfully submitted,

Union Electric Company d/b/a AmerenUE

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### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served via e-mail, to the following parties on the 9th day of April, 2010.

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