

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

In the Matter of Union Electric Company d/b/a     )  
Ameren Missouri's Tariffs to Decrease Its        )  
Revenues for Electric Service.                    )

**Case No. ER-2019-0335**

**STAFF STATEMENTS OF POSITION**

**COMES NOW** the Staff of the Missouri Public Service Commission and respectfully submits the following Statements of Position on the issues reserved for hearing in this matter as set forth in the List of Issues filed herein on February 20, 2020:

**Issue (1) - Unit Commitments**

a. Should any disallowance be ordered because of Ameren Missouri's unit commitment practices?

**Staff Position:** No. Starting on pg. 26 and continuing through pg. 42, Sierra Club witness Avi Allison discusses Ameren Missouri's unit commitment and dispatch practices. Much of that discussion focuses on the practice of utilizing "must-run" commitment status for its units, in particular coal units. Further, OPC witness Lena Mantle, on pg. 5, lines 3-5 of her surrebuttal testimony, recommends the Commission disallow the recovery of operational costs incurred through the uneconomic commitment and dispatch of Ameren's coal units. While Staff did not specifically address disallowances on this basis in this case, in File No. EW-2019-0370 Staff was tasked with investigating the self-commit and self-scheduling practices of Missouri's investor owned electric utilities in their respective Regional Transmission Organization ("RTO") energy markets to determine if such practices benefit their ratepayers. Staff's resulting investigatory report on Ameren Missouri can be found in the EW-2020-0032 case docket. In Staff's Second Supplemental Report submitted November 8, 2019, in that working docket, Staff indicated

its plans to monitor Ameren Missouri's self-commit and self-scheduling strategies in fuel adjustment clause prudence reviews. See Lange Rebuttal, p. 2 line 6 – p. 4 line 12.

**Issue (2) - Coal Plants and Long-Term Planning**

a. Should the Commission refuse to allow recovery of capital costs incurred at the Rush Island, Labadie, and Sioux Energy Centers during the test year or true-up period established for this case?

b. Should a rigorous economic assessment as outlined in Sierra Club witness Avi Allison's surrebuttal testimony (page 3, lines 14-19) be required apart from the analyses to be submitted by Ameren Missouri in its 2020 triennial integrated resource planning case?

**Staff Position:** No. In Staff's Second Supplemental Report submitted November 8, 2019, in File No. EW-2019-0370, "Staff maintain[ed] that in order to fully understand the economic impact of self-scheduling on a given unit's profitability, an analysis at the RTO level would need to be conducted." Further noting, "Due to the highly confidential nature of utilities' market bidding strategies, it is highly unlikely that any party other than SPP or MISO have the raw data, modeling software access, and resources to conduct such an extensive analysis of market trends." Having noted the constraints, Staff indicated its plans to monitor Ameren Missouri's self-commit and self-scheduling strategies in fuel adjustment clause prudence reviews. Further, when discussing special contemporary issues for each utility's integrated resource planning, the Commission included self-scheduling/self-commit as a special contemporary issue that should be addressed in IRPs. See Lange Rebuttal, p. 2 line 6 – p. 4 line 12.

### **Issue (3) – Fuel Adjustment Clause (“FAC”)**

a. What is the appropriate sharing mechanism between the company and customers for costs recovered through the FAC?

**Staff Position:** The Commission should order continuation of the 95%/5% sharing mechanism. Following a FAC Accumulation Period, actual FAC costs are compared to estimated FAC costs. If estimated costs exceed actual costs, 95% of the difference is returned to customers. If actual costs exceed estimated costs, 95% of the difference is recovered from customers. As shown in Schedule AMM-R1 attached to Ameren witness Andrew Meyer’s rebuttal testimony, this ratio is well-established and the Commission has always ordered it, even in the face of other ratio proposals. OPC recommends changing the sharing mechanism to 85%/15%, claiming this will incentivize efficiencies. OPC has not provided sufficient evidence warranting a change in the current sharing percentage, and Staff’s position is that it should continue. Wildhaber Rebuttal, p. 8 lines 5-13

### **Issue (4) – Affiliate Transactions**

a. Should OPC’s recommended disallowance of approximately \$218 million in Ameren Service Company costs be adopted?

**Staff Position:** No. Based upon its review in this rate case, and upon its review in Case No. EO-2017-0176, Staff does not agree that the adjustment proposed by OPC in this proceeding is appropriate or justified, and accordingly, should be rejected by the Commission.

While Ameren Missouri does not yet have a Commission approved Cost Allocation Manual (“CAM”), it has been engaged in active negotiations with both Staff and the Office of Public Counsel (“OPC”) to obtain one for the last several years.

These negotiations have resulted in Staff and Ameren Missouri agreeing to a CAM document, attached to and memorialized in the Nonunanimous Stipulation and Agreement filed in Case No. EO-2017-0176 on November 30, 2018; which, of note, contains agreements for the following:

- A requirement that all affiliate transactions be conducted under a written contract between Ameren Missouri and its affiliates;
- A requirement for Affiliate Transaction Rule compliance training, as well as sharing of training materials with Staff prior to use;
- A requirement for the formation and implementation of an Ameren Missouri “CAM Team” to assist Ameren Missouri’s compliance with the Affiliate Transaction Rules;
- A requirement for annual audits by the CAM Team in conjunction with the Internal Audit Department respecting compliance with the CAM and the Affiliate Transaction Rules;
- An agreement to complete a Fully Distributed Cost Study to evaluate whether the current costing methods applicable to affiliate transactions between Ameren Missouri and Ameren Services Company (“AMS”) are the most appropriate methods and to evaluate the current and future allocation of AMS costs that cannot be charged to a single affiliate; and
- Recommendations that the Commission approve several variances from the Affiliate Transaction Rules for Ameren Missouri.<sup>1</sup>

While that proceeding has been stayed pending potential amendments to the Commission’s Affiliate Transaction Rules, Ameren Missouri is currently implementing many of the measures that were agreed to, other than those that depend on approval of the settlement.<sup>2</sup>

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<sup>1</sup> Rebuttal Testimony of Staff Witness Mark L. Oligschlaeger, p. 6, ln. 7 through p. 7, ln. 2.

<sup>2</sup> Rebuttal Testimony of Ameren Missouri Witness Tom Byrne, p. 15, lns. 16-18.

Though the Commission has yet to approve Ameren Missouri's proposed CAM, or the associated requests for variances, it is Staff's position that Ameren Missouri has demonstrated that its affiliate transactions with AMS sufficiently comply with the Commission's Affiliate Transactions Rules.<sup>3</sup> AMS, pursuant to Federal Energy Regulatory Commission ("FERC") regulation, is a centralized service company<sup>4</sup> that provides various corporate support services<sup>5</sup> to Ameren Missouri and its other affiliates "at cost."<sup>6</sup> Pursuant to the Commission's Affiliate Transactions Rules, Ameren Missouri is able to provide preferential service, information, and/or treatment<sup>7</sup> to its affiliates with

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<sup>3</sup> See 20 CSR 4240-20.015.

<sup>4</sup> 18 CFR 367.1(a)(7) of the FERC regulations defines a centralized service company as "a service company that provides services such as administrative, managerial, financial, accounting, recordkeeping, legal or engineering services, which are sold, furnished, or otherwise provided (typically for a charge) to other companies in the same holding company system. Centralized service companies are different from other service companies that only provide a discrete good or service."

<sup>5</sup> 20 CSR 4240-20.015(1)(D) defines "corporate support" as joint corporate oversight, governance, support systems and personnel, involving payroll, shareholder services, financial reporting, human resources, employee records, pension management, legal services, and research and design.

<sup>6</sup> Direct Testimony of Ameren Missouri Witness John J. Reed, p. 9, Ins. 9-12; Rebuttal Testimony of Ameren Missouri Witness Tom Byrne, p. 11, Ins. 19-22; Rebuttal Testimony of Ameren Missouri Witness John J. Reed, p. 4, Ins. 1-2, p. 10, Ins. 16-20; Surrebuttal Testimony of Ameren Missouri Witness John J. Reed, p. 14, Ins. 10-12; Surrebuttal Testimony of Ameren Missouri Witness Tom Byrne, p. 3, Ins. 15-18.

18 CFR 367.1(a)(11) defines cost as "the amount of money actually paid for property or services. When the consideration given is other than cash in a purchase and sale transaction, as distinguished from a transaction involving the issuance of common stock in a merger, the value of such consideration must be determined on a cash basis."

18 CFR 367.2(c) states "to the extent that the term service company is used in this Uniform System of Accounts, it applies only to centralized service companies."

18 CFR 367.25 states, in part, "a service must be deemed at cost and fair allocation of costs requires an accurate accounting for the elements that makes up the aggregate expense of conducting the business of the service company."

<sup>7</sup> 20 CSR 4240-20.015(2)(B) states, "Except as necessary to provide corporate support functions, the regulated electrical corporation shall conduct its business in such a way as not to provide any preferential service, information or treatment to an affiliate entity over another party at any time."

20 CSR 4240-20.015(1)(H) defines "preferential service" as information or treatment or actions by the regulated electrical corporation which places the affiliated entity at an unfair advantage over its competitors.

regard to the provision of corporate support services, and thus, is able to take advantage of AMS as a centralized service provider. Further, Ameren Missouri has sufficiently demonstrated, in this case and others, that obtaining competitive bids<sup>8</sup> to determine fair market price for AMS services is inappropriate and unnecessary for the following reasons:

- Ameren Missouri’s Joint Planning and Procurement policy, establishing the process used by Ameren Missouri for planning and purchasing products and services from AMS, allows Ameren Missouri to determine its need for, the nature of, and the value of the products and services offered by AMS on an ongoing basis;<sup>9</sup>
- AMS transacts with its affiliates “at cost” without mark up or profit,<sup>10</sup> and thus, its transactions with Ameren Missouri do not involve the same possibility of abuses as transactions between a regulated affiliate with a non-regulated, for-profit affiliate; such as a corporate parent deriving greater profits by over-charging an affiliated regulated utility;<sup>11</sup>
- The types of services that are provided to Ameren Missouri by AMS are largely labor intensive; meaning their costs consist primarily of the wages, salaries, and benefits of AMS employees.<sup>12</sup> And, in order to ensure that AMS employees are provided a market level compensation package, the

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20 CSR 4240-20.015(1)(J) defines “unfair advantage” as an advantage that cannot be obtained by nonaffiliate entities or can only be obtained at a competitively prohibitive cost in either time or resources.

<sup>8</sup> Pursuant to 20 CSR 4240-20.015(3)(A), when a regulated electrical corporation purchases information, assets, goods or services from an affiliated entity, the regulated electrical corporation shall either obtain competitive bids for such information, assets, goods or services or demonstrate why competitive bids were neither necessary nor appropriate.

<sup>9</sup> Rebuttal Testimony of Ameren Missouri Witness Ben Hasse, p. 4, Ins. 2-6.

<sup>10</sup> Direct Testimony of Ameren Missouri Witness John J. Reed, p. 9, Ins. 9-12; Rebuttal Testimony of Ameren Missouri Witness Tom Byrne, p. 11, Ins. 19-22; Rebuttal Testimony of Ameren Missouri Witness John J. Reed, p. 4, Ins. 1-2, p. 10, Ins. 16-20; Surrebuttal Testimony of Ameren Missouri Witness John J. Reed, p. 14, Ins. 10-12; Surrebuttal Testimony of Ameren Missouri Witness Tom Byrne, p. 3, Ins. 15-18.

<sup>11</sup> Surrebuttal Testimony of Staff Witness Mark L. Oligschlaeger, p. 9, Ins. 4-6.

<sup>12</sup> Direct Testimony of Ameren Missouri Witness John J. Reed, p. 9, Ins 11-12.

AMS Human Resources Department routinely benchmarks wages, salaries, and benefits against local, regional, and national companies;<sup>13</sup> and

- The service company model contains inherent economic efficiencies that allow for the capture of economies of scale present in the holding company structure and avoid duplication of corporate support functions among multiple utilities.<sup>14</sup>

It is Staff's position, when the above factors are taken together, that it is unlikely that extensive competitive bidding for services currently received by Ameren Missouri from AMS would be productive or cost-effective.<sup>15</sup> Further, under these circumstances, it is Staff's position that Ameren Missouri has reasonably justified the amounts charged by AMS for corporate support services in this proceeding as being consistent with the intent of the asymmetric pricing standards contained within the Affiliate Transaction Rules.<sup>16</sup>

In addition, it is Staff's position that Ameren Missouri has sufficiently met its burden of proof to show that the amounts included in its rates for transactions with AMS are just and reasonable. Ameren Missouri conducted an analysis of its

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<sup>13</sup> Surrebuttal Testimony of Staff Witness Mark L. Oligschlaeger, p. 11 Ins 4-10; Rebuttal Testimony of OPC Witness Robert E. Schallenberg p. 15, Ins 21-23; Direct Testimony of Ameren Missouri Witness John J. Reed p. 9, Ins. 17-23; Direct Testimony of Ameren Missouri Witness Kelly S. Hasenfrazt.

<sup>14</sup> Rebuttal Testimony of Ameren Missouri Witness Tom Byrne, p. 10, Ins. 12-16; Rebuttal Testimony of Staff Witness Mark L. Oligschlaeger, p. 9, Ins. 15-21; Surrebuttal Testimony of Staff Witness Mark L. Oligschlaeger, p. 10, Ins. 4-8.

<sup>15</sup> Surrebuttal Testimony of Staff Witness Mark L. Oligschlaeger, p. 10, Ins. 7-8.

<sup>16</sup> 20 CSR 4240-20.015(2)(A) provides that "A regulated electrical corporation shall not provide a financial advantage to an affiliate entity. For the purposes of this rule, a regulated electrical corporation shall be deemed to provide a financial advantage to an affiliated entity if –

1. It compensates an affiliate entity for goods or services above the lesser of –
  - A. The fair market price; or
  - B. The fully distributed cost to the regulated electrical corporation to provide the goods or services for itself; or
2. It transfers information, assets, goods or services of any kind to an affiliate entity below the greater of –
  - A. The fair market price; or
  - B. The fully distributed cost to the regulated electrical corporation.

administrative and general (“A&G”) expense from 1999 to 2018, indicating that its customers appear to have benefited from the formation of AMS.<sup>17</sup> Ameren Missouri also compared its total non-fuel operations and maintenance (“O&M”) expense and A&G expense to those of similar utilities, demonstrating that their costs appear to be reasonable when compared to their peers.<sup>18</sup> Along with reviewing all of the evidence presented by Ameren Missouri in this case, Staff conducted a full audit of Ameren Missouri’s affiliate transactions for prudence, reasonableness, compliance with its CAM, and compliance with the applicable Affiliate Transaction Rules. In this audit, Staff did not find any irregularities or excessive charges to Ameren Missouri by AMS.<sup>19</sup>

Accordingly, Staff recommends the Commission find that Ameren Missouri’s transactions with AMS sufficiently comply with the Affiliate Transactions Rules, that Ameren Missouri has met its burden of proof to show that its transactions with AMS are just and reasonable, and that the Commission reject OPC’s proposed adjustment of approximately \$218 million.

**WHEREFORE**, Staff respectfully requests that the Commission accept for its consideration the foregoing Statements of Position and find in favor of Staff on each issue set forth above.

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<sup>17</sup> Direct Testimony of Ameren Missouri Witness John J. Reed, p. 11, ln. 7 through p. 12, ln. 2.

<sup>18</sup> Direct Testimony of Ameren Missouri Witness John J. Reed, p. 12, ln. 3 through p. 16, ln. 8.

<sup>19</sup> Rebuttal Testimony of Staff Witness Mark L. Oligschlaeger, p. 7, lns. 15-19.

Respectfully submitted,

**/s/ Jeffrey A. Keevil**

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to counsel of record this 24th day of February, 2020.

**/s/ Jeffrey A. Keevil**