

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

In the Matter of the Tariff Filings of)	<u>Case No. ER-2010-0036</u>
Union Electric Company, d/b/a)	Tariff No. Nos. YE-2010-0054
AmerenUE, to Increase Its Revenues for)	and YE-2010-0055
Retail Electric Service.)	

STATEMENT OF POSITIONS OF THE OFFICE OF THE PUBLIC COUNSEL

COMES NOW the Office of the Public Counsel and submits its Statement of Positions on the issues listed in the List of Issues, Order of Witnesses, Order of Opening Statement Statements and Order of Cross-Examination filed on March 8, 2010. Public Counsel's positions are listed after each issue in italics.

LIST OF ISSUES

The following contested issues are before the Commission:

1. **Overview and Policy:** Overview of "cost of service," and / or what policy considerations, if any, should guide the Commission in deciding this case?
In determining just and reasonable rates to be established in this case, the Commission should be mindful of the overall state of the economy and the impact that a significant rate increase would have on AmerenUE's ratepayers.

2. **Return on Equity:** What return on equity should be used for determining AmerenUE's revenue requirement?
The Commission should authorize a return on equity of 10.1 percent or less.

 Capital Structure: What capital structure should be used for determining AmerenUE's revenue requirement? (True-up Issue)
The capital structure should be 47.390% long term debt, 1.484% preferred stock, and 51.126% common equity, unless a different capital structure is established in the true-up.

 Flotation Costs: How should flotation costs be reflected in determining AmerenUE's revenue requirement?
If the Commission determines this \$13.7 million expense is reasonable and should be recovered by the Company, then such amount should be amortized over a period of five years.

3. **Vegetation Management Expense:**

- i. What level of vegetation management expense is appropriate for recognition in AmerenUE's revenue requirement?

The actual amount of non-labor vegetation management and infrastructure inspection cost (\$58million) incurred by AmerenUE for the twelve months ending January 31, 2010 should be included in the cost of service.

- ii. Should a tracker continue to be implemented for AmerenUE's vegetation management expense that varies from the level of vegetation management expense the Commission recognizes in AmerenUE's revenue requirement?

No vegetation management expense tracker should be used.

4. **Infrastructure Inspection Expense:**

- i. What level of infrastructure inspection expense is appropriate for recognition in AmerenUE's revenue requirement?

The actual amount of non-labor vegetation management and infrastructure inspection cost (\$58million) incurred by AmerenUE for the twelve months ending January 31, 2010 should be included in the cost of service.

- ii. Should a tracker continue to be implemented for AmerenUE's infrastructure inspection expense that varies from the level of infrastructure inspection expense the Commission recognizes in AmerenUE's revenue requirement?

No infrastructure inspection expense tracker should be used.

5. **Storm Expense:**

- i. What level of storm expense is appropriate for recognition in AmerenUE's revenue requirement?

\$6.4 million.

- ii. Should a tracker be implemented for storm expense that varies from the level of storm expense the Commission recognizes in AmerenUE's revenue requirement?

No storm expense tracker should be used.

- iii. Should the amount incurred during the test-year, in excess of the level of storm expense that is appropriate for recognition in AmerenUE's revenue requirement be amortized?

Public Counsel supports the Staff position on this issue.

6. **Power Plant Maintenance Expense:** What level of plant maintenance expense for the coal-fired generating units is appropriate for recognition in AmerenUE's revenue requirement?

Public Counsel supports the position of the MIEC on this issue.

7. **Rate Case Expense:** What level of rate case expense is appropriate for recognition in AmerenUE's revenue requirement?
Rate case expense should be allowed to the extent discussed in the testimony of Public Counsel witness Trippensee. An accurate quantification of the appropriate level will be determined in the true-up.
8. **Callaway Fuel/Fuel Modeling Issues:** What is the appropriate nuclear fuel price input for the production cost model?
Public Counsel supports the position of the Staff on this issue.
9. **Other Fuel Model Issues:**
i. What are the appropriate market energy prices to be used as inputs for the production cost model?
Public Counsel supports the position of the Staff on this issue.
ii. What is the appropriate Callaway refueling outage period to be used as an input for the production cost model?
Public Counsel supports the position of the Staff on this issue.
10. **Fuel Adjustment Clause (FAC):**
i. Should the Commission discontinue AmerenUE's fuel adjustment clause, or should the Commission modify AmerenUE's fuel adjustment clause?
The Commission should modify AmerenUE's FAC as described below in ii. and iii.
ii. If the Commission modifies AmerenUE's fuel adjustment clause what percentage of the difference between actual fuel and purchased power costs, net of off-system sales and the cost included in base rates should the Commission adopt for recovery through the fuel adjustment clause?
80% of the difference of the difference between actual fuel and purchased power costs, net of off-system sales and the cost included in base rates should be recovered through the fuel adjustment clause.
iii. Should the revenues from long-term bilateral contract sales flow through AmerenUE's fuel adjustment clause? If so, how?
Yes, this should be done in accordance with the method described in the surrebuttal testimony of Staff witness Lena Mantle. The revenues from the capacity charges associated with long-term bilateral contracts of one year or more should be reflected as an offset to AmerenUE's base fuel costs and its revenue requirement and the energy and other non-fixed charge revenues from such contracts should flow through the FAC along with the fuel costs associated with these non-fixed charges.

11. **Executive Compensation:** What level of executive compensation is appropriate for recognition in AmerenUE's revenue requirement?

Public Counsel supports the MIEC position on this issue.

12. **Depreciation Expense:**

- i. Should depreciation rates for the Company's steam production and hydroelectric power plants be established using the life span approach or the mass property approach?

Public Counsel supports the MIEC position on this issue.

- a. If the life span approach is used, what are the appropriate depreciation rates?

Public Counsel supports the MIEC position on this issue.

- b. If the mass property approach is used, what are the appropriate depreciation rates?

Public Counsel supports the MIEC position on this issue.

- c. Is special treatment required for retirement costs associated with the Venice plant?

Public Counsel supports the MIEC position on this issue.

- ii. What are the appropriate depreciation rates for Account 356 (Overhead Conductors and Devices)?

Public Counsel supports the position of the Staff on this issue.

- iii. What approach should be used to determine the net salvage component of the depreciation rates for AmerenUE's transmission and distribution facilities and, therefore, the resultant depreciation rates for transmission and distribution facilities?

Public Counsel supports the MIEC position on this issue.

- iv. Should the retirement of the Callaway steam generators be included in the life and net salvage analysis?

Public Counsel supports the MIEC position on this issue.

13. **Union Issue:** The Unions support AmerenUE's proposed rate increase but raise the following issues....

Public Counsel takes no position on these issues at this time.

14. **Class Cost of Service and Rate Design:**

- a. **Low-Income Residential Customers:**

- i. Should the Commission establish a new customer class composed of very

low-income residential customers? If so, how should it be defined?

Public Counsel takes no position at this time on whether “very low-income” should be the basis for establishing a unique customer class. (Meisenheimer Supplemental Direct, page 2) A threshold of 100% of the FPL could reasonably be used to define very low-income for purposes of establishing low-income energy assistance programs. (Meisenheimer Supplemental Direct, page 13)

- ii. Should the Commission approve a program to address the concerns of

AmerenUE’s very low-income residential customers? If so:

Public Counsel did not originally propose a low-income program in this case pending evaluation of the success of other experimental programs. However, if the Commission determines that an experimental low-income program should be adopted in this case, the program should reflect a three prong approach of tiered bill credits, arrears reduction and application for weatherization in order to address both the immediate need and the longer term issues of payment habits and affordability for very low-income participants. (Meisenheimer Supplemental Direct, page 2)

- a) What should components of the program be?

The Commission should accept the recommendation of Public Counsel for a moderately sized, experimental program. (Meisenheimer Supplemental Direct, page 2) The components should include: 1) mandatory application for weatherization (Meisenheimer Supplemental Direct, page 2); 2) all electric and senior cooling credits at tiered levels as proposed by Public Counsel (Meisenheimer Supplemental Direct, page 19-20; Meisenheimer Supplemental Rebuttal, page 7) that reflect a household’s income relative to the Federal Poverty Level based on a 4% - 6% energy burden. (Meisenheimer Supplemental Direct, page 2); and 3) an arrears repayment program component. The arrears repayment component should require some ongoing minimum payment to reduce arrears coupled with an arrears repayment incentive. (Meisenheimer Supplemental Direct, page 2)

- b) Which customers should be eligible?

Very low-income customers with household income at or below 100% of the FPL should be eligible to participate. The program should target customers that use electric as the primary heat source. (Meisenheimer Supplemental Direct, page 3) The program may also include a component for summer cooling for low-income seniors. (Meisenheimer Supplemental Rebuttal, page 5)

- c) What additional conditions or limitations, if any, should be established for participation?

Additional conditions or limitations for participation should include: 1) Participants should be required to apply for LIHEAP assistance (Meisenheimer Supplemental Direct, page 2); 2) Participants that heat with electricity should be strongly encouraged to enroll in an average pay plan (Meisenheimer Supplemental Direct, page 21) Summer cooling participants should not be required to enroll in an average payment plan. (Meisenheimer Supplemental Rebuttal, page 6); 3) The participation should be limited to a level that ensures a modest sized program in terms of the combined expenditures on the bill credits and arrears repayment incentive components of the program. (Meisenheimer Supplemental Direct, page 22-23); 4) The parameters for participation by poverty level that put the greatest emphasis on participation at the lowest income levels but

includes potential participation for all levels of poverty below 100% of the FPL. (Meisenheimer Supplemental Direct, page 22); 5) The annual bill credits should not exceed the customer's annual bill. (Meisenheimer Supplemental Rebuttal, page 13); 6) Participants meeting payment requirements while in the program be allowed to continue in the program for the duration of the program. (Meisenheimer Supplemental Rebuttal, page 13); and 7) the program be approved for a minimum of two years or until rates are approved for the first general rate proceeding initiated after the two year initial program period. (Meisenheimer Supplemental Rebuttal, page 13)

d) How should the program be administered?

Local community action agencies should qualify customers for bill credits based on information and documentation provided by customers applying for energy and other public assistance and send information regarding the customer and the level of bill credit to the utility. The community action agencies should also handle weatherization and conservation related program requirements and conduct some outreach to identify potential participants. The utility should process bill credits through its billing system, oversees the components of the program and tracks and reports on program metrics. (Meisenheimer Supplemental Direct, page 22)

e) How should the program be evaluated?

The tracking, reporting and evaluation requirements should be modeled after those associated with the Laclede program. (Meisenheimer Supplemental Direct, page 22)

f) Who should bear the program costs and how should they be recovered?

The program cost should be similar to those developed in Public Counsel's testimony; roughly \$555,000 to \$570,000 annually for the all electric bill credit, arrears repayment and 10% administration with roughly an additional \$67,300 to \$71,300 added annually for a summer cooling component. (Meisenheimer Supplemental Direct, page 23-24; Meisenheimer Supplemental Rebuttal, page 8) The Commission should consider if voluntary funding sources can be used to fund the program in order to avoid further raising the rates of other rate-payers. (Meisenheimer Supplemental Direct, page 13) If ratepayer funding is required all classes should contribute towards making up any deficit in the revenue requirement. Any unspent rate-payer funds should accrue interest. (Meisenheimer Supplemental Direct, page 2-3)

b. Class Cost of Service: How should class revenue responsibility be determined?

i. If there is a new AmerenUE customer class composed of low-income residential customers, how should the change in revenue responsibility of the members of that new class be shifted to the other customer classes?

The Commission should consider if voluntary funding sources can be used to fund the program in order to avoid further raising the rates of other rate-payers. (Meisenheimer Supplemental Direct, page 13) If ratepayer funding is required all classes should contribute towards making up any deficit in the revenue requirement. Any unspent rate-payer funds should accrue interest. (Meisenheimer Supplemental Direct, page 2-3)

ii. What allocation methodology should be used for determining the production capacity allocator?

The Commission should adopt Public Counsel's primary recommendation to use the TOU production capacity allocator or Public Counsel's secondary recommendation to use an Average and 4 Coincident Peak production allocator. (Meisenheimer Direct, pages 7-10, and pages 4-7)

- iii. What allocation methodology should be used for determining the production fuel cost allocator?

Public Counsel's TOU energy allocator.

- iv. If the Commission relies on the Average & Peak 4 CP allocation method for determining the production cost allocator what peak demand data should it use?

The Commission should adopt Public Counsel's recommendation to use weather normalized peak data rather than peak data that has not been adjusted to reflect normal weather. (Meisenheimer Rebuttal, page 3)

- v. What allocation methodology should be used for determining the transmission cost allocator?

Public Counsel's TOU capacity allocator.

- vi. What allocation methodology should be used for determining the fuel cost allocator?

Public Counsel's TOU energy allocator.

- vii. What allocation methodology should be used to allocate net margins from off-system sales to the customer classes?

Public Counsel's TOU capacity allocator.

- viii. Should the revenue responsibility of the various customer classes be based in part on the class cost-of-service study results?

Considerations in determining class revenue responsibility include other considerations such as gradualism, potential rate shock, rate continuity, value of service and affordability as well as class cost of service study results.

- ix. Should there be an increase or decrease in the revenue responsibility of the various customer classes?

No. Public Counsel believes that, except as described in item 14.b.i. above, any overall revenue requirement increase that results from this case should be made by making equal percentage increases to each customer class' revenue responsibility.

- x. If the answer to "ix" above is "yes," what basis should be used to increase or decrease the revenue responsibility of the various classes?

See ix, above.

b. Rate Design:

- i. In respect to the class cost-of-service determination, including the class cost-of-service study determination, how should the Commission change the level of the rates of each customer class that it orders in this case?

Any such changes should generally be made by making equal percentage changes to all rate elements.

- ii. At what level should the Commission set the residential class customer charge?

It should be increased by the same percentage increase made to the revenue requirement for the residential class in this case. For example, if the residential revenue requirement was \$100 million prior to new rates being set in this case and the new residential class revenue requirement resulting from this case is \$110 million (a 10% increase) then the residential customer charge should be increased by 10% from the current level of \$7.25 to \$7.97 (\$7.25 x 1.10). AmerenUE's initiatives in the area of energy efficiency and demand response for residential customers cannot be characterized as "aggressive" at this time so these initiatives should not be considered in setting the level of the customer charge for residential customers.

- iii. At what levels should the Commission set the small general service class customer charge for single-phase and three-phase service, respectively?

It should be increased by the same percentage increase made to the revenue requirement for the small general service class in this case.

WHEREFORE, Public Counsel respectfully submits its statement of positions.

Respectfully submitted,

OFFICE OF THE Public Counsel

/s/ Lewis R. Mills, Jr.

By: _____

Lewis R. Mills, Jr. (#35275)

Public Counsel

P O Box 2230

Jefferson City, MO 65102

(573) 751-1304

(573) 751-5562 FAX

lewis.mills@ded.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been emailed to parties of record this 10th day of March 2010.

/s/ Lewis R. Mills, Jr.
