

MEMORANDUM

TO: Missouri Public Service Commission Official Case File
Case No. EO-2010-0149, Application of Union Electric Company d/b/a
AmerenUE for Authorization to Manage its Nitrogen Oxide (NOx)
Emission Allowance Inventory

FROM: Daniel I. Beck, Energy Department – Engineering Analysis
Stephen M. Rackers, Auditing Department

/s/ Daniel I. Beck 05/19/10
Energy Department / Date

/s/ Stephen M. Rackers 05/19/10
Auditing Department / Date

/s/ Sarah Kleithermes 05/19/10
Staff Counsels' Office / Date

SUBJECT: Staff's Recommendation to Grant Application, with Conditions

DATE: May 19, 2010

OVERVIEW

On November 19, 2009, Union Electric Company, d/b/a AmerenUE (“AmerenUE”) filed an Application with the Missouri Public Service Commission (“Commission”) seeking authorization to “manage” its nitrogen oxide emission allowances (“NOx Allowances”). The Commission initially ordered its Staff to file its recommendation regarding that application no later than January 11, 2010, and subsequently extended that date to April 9, 2010, and then to May 19, 2010. The Commission set an intervention deadline of December 11, 2009, but no party sought to intervene.

AmerenUE's Application to manage its NOx Allowance inventory implicitly entails both a request for the ability to buy and sell NOx Allowances and a request for cost recovery of those transactions. The *First Nonunanimous Stipulation and Agreement*, filed March 10, 2010 in Case No. ER-2010-0036, AmerenUE's current rate case, addresses the recovery of NOx allowance revenues or costs by flowing those costs and revenues through

AmerenUE's fuel adjustment clause. However, at this time AmerenUE does not have authority to sell, exchange, transfer, or "manage" its NOx emission allowances.

The emission allowances markets have undergone significant changes since the Commission first authorized AmerenUE to manage sulfur dioxide allowances in Case No. EO-98-0401. The Staff agrees with AmerenUE's assessment that the regulatory framework governing NOx emissions and NOx allowances remains uncertain. The Staff recommends that this uncertainty be addressed by developing a plan with contingencies to deal with the uncertainty.

AmerenUE's proposal to simply report a year's worth of transactions on August 31 of each year on an after-the-fact basis does not constitute a plan or even the outline of a strategy. AmerenUE's request to "possess the flexibility to transact quickly when rules are announced to take advantage of rapidly moving markets" can be accommodated through the conditions outlined below.

AmerenUE did not mention in its Application several Commission rules that are applicable to this request -- 4 CSR 240-3.110 addressing the authority to sell, assign, lease or transfer assets, and the Commission's rules in Chapter 22 addressing Integrated Resource Planning.

STAFF RECOMMENDATION

The Staff recommends that the Commission grant AmerenUE's Application, subject to the following conditions:

- a. By December 31 of each calendar year AmerenUE shall file its "NOx Plan" to be effective for the period commencing April 1 of the following year and ending March 31 of the next subsequent year (the "NOx Plan Year"). That NOx Plan may be updated during the NOx Plan Year; however, the NOx Plan Year will not change due to such an update.

- b. As part of the NOx Plan, AmerenUE shall provide:
 - (1) the number of allowances it currently has banked,
 - (2) the number of allowances it projects to need in the coming Plan Year,
 - (3) the number of additional allowances it projects to receive in future years,
 - (4) a summary of the previous plan year's transactions to date,
 - (5) AmerenUE's proposed range of intended transactions for the upcoming plan year, including contingencies for:
 - i. market opportunities,
 - ii. unexpected extended outages or shutdown of a major AmerenUE generating unit
 - iii. other factors identified by AmerenUE.
 - (6) consideration for any scheduled commitments in place prior to the effective date of the final order in Case No. EO-2010-0149,
 - (7) consideration for:
 - i. the types of coals that will be burned in generating units,
 - ii. the nitrogen content of those coals that will be burned in generating units,
 - iii. expected regulations that may affect the NOx allowance management program,
 - iv. expected installed air quality pollution control equipment that will affect emission rates of generating units.

- c. If no response regarding the annual NOx Plan is received from Staff, OPC, or the Missouri Department of Natural Resources (DNR) within thirty (30) days of the filing date, the NOx Plan will apply for future transactions during the NOx Plan Year. Responses specifically disputing or questioning an aspect of the NOx Plan shall be discussed in good faith by Staff, OPC, DNR, and AmerenUE. If within thirty (30) days of the date of the response specifically disputing or questioning an aspect of the NOx Plan the matter has not been resolved, the matter shall be brought to the Commission for its determination. Any response not specifically disputing or questioning an aspect of the NOx Plan will not extend the period of review.

- d. The NOx Plan may need to be updated throughout the NOx Plan Year. AmerenUE shall file any such updates to its NOx Plan and allow time for response by Staff, OPC, and DNR prior to exceeding the level of planned transactions contained in its NOx Plan then in effect. If no response regarding the updates to the NOx Plan is received from Staff, OPC, or DNR within thirty (30) days of the filing date, the updates to the NOx Plan will automatically be considered to be the current basis for future transactions during the NOx Plan Year. Responses specifically disputing or questioning an aspect of the updated NOx Plan shall be discussed in good faith by Staff, OPC, DNR, and AmerenUE. If within thirty (30) days of the date of the response specifically disputing or questioning an aspect of the updated NOx Plan the matter has not been resolved, the matter shall be brought to the Commission for its determination. Any response not specifically disputing or questioning an aspect

of the updated NOx Plan will not extend the period of review. Changes in circumstances which may require such updates include, but are not limited to:

- (1) market opportunities and
 - (2) substantial changes in:
 - i. the price of allowances,
 - ii. the cost and/or effectiveness of emission control technologies,
 - iii. environmental regulations or proposed environmental regulations,
 - iv. other energy market conditions.
- e. Using the Company's current resource plan as a base, NOx Plans shall include at least three different scenarios of projections. A baseline projection shall be made based on projected fuel types (nitrogen content), projected emission rates, and best estimate of future regulations. A second projection shall be made that looks at a high emissions scenario. The final projection shall look at a low emissions scenario. These scenarios shall be used to project a range of future allowance bank surpluses or deficits for each year of a planning horizon. The planning horizon shall consist of at least ten (10) years.
- f. If not already provided in the Company's resource plan, the NOx Plan shall also provide an estimate of the cost to "produce" additional allowances at one or more of AmerenUE's generating facilities if AmerenUE were to install air quality control equipment that would lower NOx emission rates. As part of the documentation of the cost to "produce" additional allowances, AmerenUE shall include a description of its rationale for choosing the specific generating facility upon which the cost estimate is based. The cost estimate may be based on cost data available in the industry and will not require a unit-specific engineering study.
- g. NOx Plans shall set out AmerenUE's range of allowances and proposed intended transactions during the upcoming NOx Plan Year. This range of allowances and the proposed intended transactions shall be based on a methodology that will minimize, subject to any identified risk or other considerations, the expected present value of long-run utility revenue requirements, while fulfilling obligations to provide adequate service at reasonable rates and ensuring that the operation of AmerenUE generators will not be restricted due to a deficiency of available NOx emission allowances. Risk considerations shall, at a minimum, include:
- (1) changes in the price of allowances,
 - (2) substantial changes in the cost and/or effectiveness of emission control technologies,
 - (3) substantial changes in environmental regulations or proposed environmental regulations,
 - (4) substantial changes in other energy market conditions,
 - (5) market opportunities.

- h. NOx Plans shall include a summary of the transactions for the prior 12 months for which transaction data is available as of the time of submittal including for each transaction the type of transaction, the quantity of allowances involved in the transaction, the quantity and vintage of any allowances received as a result of the transaction, any monetary value received as a result of the transaction, and any expenses (such as brokerage fees) related to the transaction. NOx Plans shall also include the quantity of allowances issued to AmerenUE in the prior 12 months for which data is available by the EPA, the quantity of allowances used to offset emissions in the past year.
- i. In addition to the summary report included with the NOx Plan filings, AmerenUE shall create a report that tracks NOx allowances by serial number for each transaction. This report shall be made available to Staff, OPC and MDNR upon their request.
- j. Because public knowledge of AmerenUE's plans could jeopardize its ability to manage its NOx emission allowances, AmerenUE's filed NOx Plans and any updates to those Plans and all transaction documentation shall be considered "highly confidential."
- k. For purposes of AmerenUE's NOx Plans, the following terms shall have the following meanings:

NOx Emission Allowance Outright Cash Purchases – NOx emission allowances purchased to meet expected requirements of AmerenUE units.

NOx Emission Allowance Outright Cash Sales – NOx emission allowances sold from AmerenUE's share of general or unit account holdings.

NOx Emission Allowance Exchanges – The exchange of NOx emission allowances either as a "like-kind" exchange or from one vintage to another.

NOx Emission Allowance Call Sales – The sale of an option that gives the buyer (holder) the right to buy NOx emission allowances for a specified price within a specified time period in exchange for a premium payment. It obligates the seller (writer) of the option to sell NOx emission allowances at the designated price should the buyer exercise the option.

NOx Emission Allowance Put Purchases – The purchase of an option that gives the buyer (holder) the right but not the obligation to sell NOx emission allowances for a specified price within a specified time period in exchange for a premium payment. It obligates the seller (writer) of the option to buy NOx emission allowances at the designated price should the buyer exercise the option.

- l. During each NOx Plan Year all transactions shall be consistent with the NOx Plan as in effect at the time of each transaction, these conditions, and other

AmerenUE internal policies. If Staff, OPC, or MDNR have any disputes regarding AmerenUE's NOx Plan (or interim updates thereto) (1) that the parties are attempting to resolve or (2) that are pending resolution by the Commission, then AmerenUE's NOx emission allowance transactions must be consistent with the NOx Plan in effect to the extent that following that Plan would not interfere with AmerenUE's ability to meet its obligations to provide safe and adequate service to its retail customers. Proceeds and costs related to transactions completed under the NOx Plans shall be accounted for in accordance with the *First Nonunanimous Stipulation And Agreement* in Case No. ER-2010-0036.

The Application was filed pursuant to 4 CSR 240-2.060. The Staff is not aware of any other matter before the Commission that affects or is affected by this filing other than the cases discussed in this Recommendation.

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

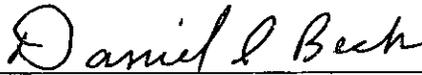
Application of Union Electric Company)
d/b/a AmerenUE for authorization to)
manage its nitrogen oxide (NOx) emission)
allowance inventory)

Case No. EO-2010-0149

AFFIDAVIT OF DANIEL I. BECK

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

Daniel I. Beck, of lawful age, on oath states: that he participated in the preparation of the foregoing Staff Recommendation in memorandum form, to be presented in the above case; that the information in the Staff Recommendation was given by him; that he has knowledge of the matters set forth in such Staff Recommendation; and that such matters are true to the best of his knowledge and belief.

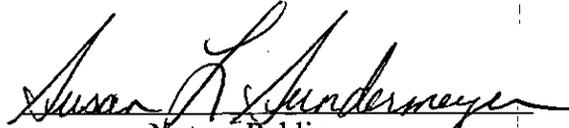


Daniel I. Beck

Subscribed and sworn to before me this 19th day of May, 2010.



SUSAN L. SUNDERMEYER
My Commission Expires
September 21, 2010
Callaway County
Commission #06942086



Notary Public

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

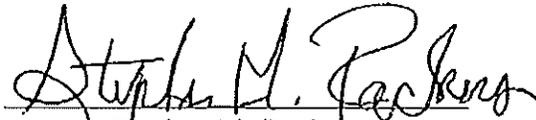
Application of Union Electric Company)
d/b/a AmercnUE for authorization to manage)
its nitrogen oxide (NOx) emission allowance)
inventory)

Case No. EO-2010-0149

AFFIDAVIT OF STEPHEN M. RACKERS

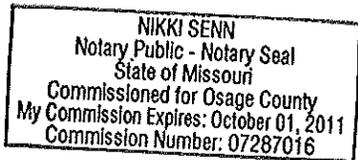
STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

Stephen M. Rackers, of lawful age, on his oath states: that he has participated in the preparation of the foregoing Staff Recommendation in memorandum form, to be presented in the above case; that the information in the Staff Recommendation was developed by him; that he has knowledge of the matters set forth in such Staff Recommendation; and that such matters are true and correct to the best of his knowledge and belief.



Stephen M. Rackers

Subscribed and sworn to before me this 19th day of May, 2010.





Notary Public