

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

In the Matter of Union Electric Company d/b/a)
AmerenUE for Authority to File Tariffs)
Increasing Rates for Electric Service Provided)
to Customers in the Company's Missouri)
Service Area.)

Case No. ER-2010-0036

PUBLIC COUNSEL'S APPLICATION FOR REHEARING

COMES NOW the Office of the Public Counsel ("Public Counsel") and for its Application for Rehearing states as follows:

1. On May 28, 2010, the Commission issued its Report and Order with an effective date of June 7, 2010. That Report and Order is unlawful, unjust, and unreasonable in that it is not based upon competent and substantial evidence of record and is contrary to the weight of the evidence. The Commission's Report and Order is unjust and unreasonable and not based on competent and substantial evidence in that it fails to make findings of the basic facts that support its conclusions. The Report and Order is unjust, unreasonable, arbitrary and capricious, and unlawful for the following reasons.

2. The Commission was wrong in stating "Public Counsel's time of use method is also unreliable because it considers every hour in the year to be a demand peak. As a result, the actual peaks in usage are given no additional weight."

3. The Time of Use (TOU) method as employed by Public Counsel in this case assigns production investment to each hour of the year that the specific production occurs. The method then sums each class's share of hourly investments based on those hours when the class actually uses the system. This method involves examining the production cost and load demand

for each hour of the year so it reflects both peak period use and the average of use throughout the year. (Ex. 307, pg. 4) Of all the production allocation methods proposed in this case, the Time of Use allocator is the only method that assigns production costs on such a granular basis. (Ex. 309 pg. 5)

4. Public Counsel relied on the RealTime model to simulate generation dispatch needed to satisfy customer load requirements for each hour of the year. (Ex. 307, pg 8) Generation investment costs for each plant were proportionally assigned to the hours that the respective plant produced and then assigned to customer classes based on each class's share of load demand during the respective hour. (Ex. 307, pg 9) In other words, the costs associated with relatively higher cost production plants used to meet peak demand were assigned to customer classes in proportion to each class's demand during the peak hours.

5. The Time of Use Allocator assigns costs based on generation plant use during each hour of the year. It is superior to methods that allocate the total production cost based in large part on class demand in only a single or only a few peak hours of the year. Allocators that overly focus on use in only a few peak hours unfairly over-allocate costs to the residential and small general service class because the capacity costs actually vary by hour depending on the plants in use. (Ex. 307 pg. 10) For example, the Average and Excess method assigns over 55% of production investment costs based on only .05% of yearly hours. (Ex. 311 pg. 8-9)

6. The TOU allocator does not unfairly assign cost to large customers. Instead, for each hour, the TOU allocator appropriately assigns the same capacity cost per hour to each class taking service during the hour based on the configuration of plants needed to serve the hour's total load. As a result, all customer classes pay the same higher level of costs when peaking plants are operating and the same lower level of cost when they are not running. Large high load

factor customers use the system at the same time as smaller lower load factor customers and benefit from the economies of scale and off-system sales opportunities created by sharing production facilities with smaller lower load factor customers. It is reasonable and appropriate that large high load factor customers pay the same cost in each hour that they use the system as the cost paid in the same hour by smaller lower load factor customers. (Ex. 311, pg. 4)

7. The Time of Use Allocator is consistent with the Probability of Dispatch Method listed in the NARUC Electric Cost Allocation Manual as a method for developing an allocator for production costs. (Ex. 307 pg. 7-8)

8. The Commission was wrong in stating:

The Peak and Average method, in contrast, initially allocates average costs to each class, but then, instead of allocating just the excess of the peak usage period to the various classes to the cost causing classes, the method reallocates the entire peak usage to the classes that contribute to the peak. Thus, the classes that contribute a large amount to the average usage of the system but add little to the peak, have their average usage allocated to them a second time. Thus, the Peak and Average method double counts the average system usage, and for that reason is unreliable.

9. The Average and Peak method is intentionally designed to give weight to both the class share of average demand and the class share of the system peak. This does not constitute double counting but simply a different theoretical basis for the allocator than is used in the Average and Excess method. The Average and Peak components of the allocator represent two distinctly different considerations. The Average component reflects that a portion of demand is not sensitive to factors that change throughout the year while the Peak component represents the allocation associated with factors that do change throughout the year such as weather. Considering the characteristics of four “like” periods, each of which is a potential peak period, recognizes that the characteristics of demand may vary by class depending on exactly when the peak demand occurs. (Exhibit 311, pg. 5)

10. The TOU allocator, the Staff's capacity utilization allocator and the Staff and OPC A&P allocators all attempt to mirror on- and off-peak use that actually occurs on the system. However, the Average and Excess method allocates the Excess Demand portion of the allocator based on fictional non-coincident peaks that may exceed the actual maximum demand ever experienced on the system in the test year. (Exhibit 311, pg. 5-6)

WHEREFORE Public Counsel respectfully requests that the Commission grant rehearing of its May 28, 2010 Report and Order.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 4th day of June 2010:

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