

**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)	Case No. ER-2012-0166
Increase Its Revenues for Electric Service)	

**MISSOURI INDUSTRIAL ENERGY CONSUMERS'
APPLICATION FOR REHEARING**

COMES NOW the Missouri Industrial Energy Consumers ("MIEC") and for its Application for Rehearing states as follows:

On December 12, 2012, the Commission issued its Report and Order with an effective date of December 22, 2012. The Report and Order is unjust, unreasonable, arbitrary and capricious, and unlawful for the following reasons.

Transmission Costs

The Commission erred in allowing Ameren Missouri to include certain transmission costs in the Fuel Adjustment Clause ("FAC"). The Commission's decision in this case is arbitrary and capricious, contrary to the evidence, and does not comport with past Commission decisions.

The Commission has previously concluded that a cost or revenue change could be tracked and recovered through an FAC if that cost or revenue change is:

- (1) Substantial enough to have a material impact upon revenue requirements and the financial performance of the business between rate cases;
- (2) Beyond the control of management, where utility management has little influence over experienced revenue or cost levels; **and**
- (3) Volatile in amount, causing significant swings in income and cash flows if not tracked.

In its Report and Order, the Commission did not properly apply these criteria in evaluating whether to allow Ameren Missouri to include certain transmission costs in the FAC. Specifically,

the Report and Order stated these costs were volatile. They are not volatile by the Commission's own definition of volatility. In its May 22, 2007 Report and Order in Case No. ER-2007-0002, on page 23, the Commission defined volatility as "Markets in which prices are volatile tend to go up and down in an unpredictable manner." The evidence in this case clearly shows that these transmission costs are not volatile. Thus, the Commission erred in allowing these transmission costs to be included in the FAC.

The Commission also, at pages 89 and 90 of the Order, erroneously equated transmission costs with "transportation" costs. By industry convention, the term "transportation" applies only to the physical movement of fuel.

The MIEC's position is that only transmission costs incurred in connection with certain identifiable transactions should be included in the FAC. Specifically, the MIEC opposed including long-term transmission charges in the FAC as they represent capacity charges for contracts in excess of one year. Furthermore, these charges recover costs associated with the construction of transmission plant. They are not incremental costs incurred to enable short-term power purchases or off-systems sales.

The Commission also wrongly concluded that the modifying phrase "long-term" in the FAC referred only to generation capacity and not to transmission transactions. As the record showed, the transmission charges in question are capacity charges in that they are related to the provision of transmission capacity and generally applied to a transmission service customer's reserved capacity or network load.

Moreover, in KCP&L Greater Missouri Operations' rate case (Case No. ER-2010-0356), the Commission found at pages 218-219 of its May 4, 2011 Report and Order that the types of costs the Commission has allowed in this case are excluded from the FAC by statute and by Commission rule:

76. The Commission concludes that all transmission costs should not be included in GMO's adjustment clause because they are not included in section 386.266,

RSMo. Supp. 2010, as a type of cost to be recovered through a fuel adjustment clause, they are inconsistent with the definitions of fuel and purchased power cost in 4 CSR 240-20.090(1)(B), and elsewhere, and they do not vary in a direct relationship with fuel or purchased power. With regard to the transmission costs specifically related to OSS, however, those costs shall be allowed to the extent that they do not include transmission costs from the Crossroads facility.

The Commission's Order in this case is a dramatic reversal from the recent GMO Order. The Commission offered no insight as to why it abruptly changed its position. The Commission was correct in the GMO case and for that reason as well as the other points noted above should reaffirm its prior decision and reject Ameren Missouri's proposal to include the contested transmission costs in the FAC.

Coal in Transit

The Commission erred in finding that coal in transit should be reflected in rate base. By including coal in transit in rate base, the Commission is providing rate base recognition of this asset twice in Ameren Missouri's cost of service. The period of time that the coal is in transit is recognized in the cash working capital allowance as determined by a lead/lag study. The amount of time from delivery of the coal in the rail car until payment is 17.14 days. The retail revenue lag in the lead/lag study is 4.95 days. Since the revenue lag is longer than the expense lag, the lead/lag study will produce a positive cash working capital allowance not a negative balance as the Order suggests. Therefore, Ameren Missouri, through the lead/lag study, is being compensated in its cost of service for the time period when coal is in transit to Ameren Missouri's generating plants. To also include a separate line item in rate base for coal in transit would result in recognizing this asset twice in rate base. The Commission should reverse its decision and reject Ameren Missouri's proposal to include coal in transit.

Cash Working Capital

The Commission erred in finding that Ameren Missouri's lag in revenue collection is 28.75 days. The Commission based much of its decision on the fact that the Staff and MIEC relied on data outside the test year (CURST Report). Since Ameren Missouri stopped producing the CURST Report in 2010, the ability to utilize a report within the test year is an impossible standard for either the MIEC or Staff to meet.

By applying this standard, the Commission was forced to arbitrarily and erroneously accept the inflated collection lag presented by Ameren Missouri. The evidence is clear that the paying habits of Ameren Missouri's customers have not changed substantially over the last several years. Staff witness Kofi Boateng presented the following table in his surrebuttal testimony:

<u>Case No.</u>	<u>Collection Lag</u>
ER-2010-0036	21.71
ER-2008-0318	20.11
GR-2007-0003	21.78
ER-2007-0002	21.78
GR-2003-0517	19.86
EC-2002-1	22.22
GR-2000-0512	19.52
GR-97-393	19.52

As can be seen from the above table, the collection lag has not materially changed over time and does not come close to the inflated lag proposed by Ameren Missouri. Since the collection lags used in those cases also were based on the CURST Report, the evidence shows that the CURST Report does indeed produce accurate results. The Commission erred in utilizing Ameren Missouri's inflated collection lag and should reverse its decision by adopting either the MIEC's collection lag of 21.01 days or the Staff's collection lag of 21.11 days.

WHEREFORE, the MIEC hereby respectfully requests that the Commission grant rehearing of its Report and Order.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been emailed this 21st day of December, 2012, to all parties on the Commission's service list in this case.

/s/ Diana Vnylsteke