

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

In the Matter of the Adjustment of Union Electric	)	
Company d/b/a Ameren Missouri's Fuel	)	<b><u>File No. ER-2012-0028</u></b>
Adjustment Clause for the 7 <sup>th</sup> Accumulation Period.	)	Tariff No. YE-2012-0065
	)	

**STAFF RESPONSE TO AUGUST 24, 2011 ORDER DIRECTING FILING**

Comes now the Staff of the Missouri Public Service Commission and for its response to the Commission's August 24, 2011, Order Directing Filing states:

1. The Commission directed its Staff to "respond to MIEC's 'Motion for FAC Credits from Off-System Sales Margins' no later than August 29, 2011," and to "also address any response to MIEC's motion filed by Ameren Missouri."

2. In their motion, MIEC argue the Commission's findings in File No. EO-2010-0255 apply to Ameren Missouri's treatment of the Wabash Valley Power Association ("Wabash") and American Electric Power Operating Companies ("AEP") contracts for accumulation periods three through five (October 1, 2009 to September 30, 2010) and, therefore, there is an overcharge of \$24,866,885 to be credited to Ameren Missouri's customers.

3. Ameren Missouri responds that its tariff and Commission rules prohibit the Commission from implementing MIEC's proposed credits in this case. Ameren Missouri's tariff (MO P.S.C. Schedule 5, 1<sup>st</sup> Revised Tariff Sheet No. 98.4 and MO P.S.C. Schedule 5, 1<sup>st</sup> Revised Tariff Sheet No. 98.12) includes in the definition of factor R used to calculate adjustments to Ameren Missouri's fuel adjustment clause such as this one, the following—"modifications or adjustments ordered by the Commission . . . ."

4. To minimize regulatory lag, Staff supports making adjustments to fuel adjustment clauses at the earliest opportunity. However, the Commission's finding of imprudence in

File No. EO-2010-0255, upon which MIEC rely, is currently undergoing review in a case Ameren Missouri brought before the Circuit Court of Cole County, Missouri, Case No. 11AC-CC00336, and could be reversed. And, despite MIEC's argument to the contrary, the Commission could reach a different result on the issue of whether the Wabash and AEP contracts are long-term full or partial requirements contracts for purposes of its fuel adjustment clause for the period October 1, 2009, through June 20, 2010,<sup>1</sup> than it did for the period March 1, 2009, to September 30, 2009. The Commission has not yet taken evidence on that issue for any or all of that time period.

5. By their motion, MIEC is requesting the Commission try the issue now. Staff supports MIEC's request if it can be done expediently in this case, similarly to how the Commission addressed NBFC rates in Ameren Missouri's first true-up amount filing under its fuel adjustment clause, File No. ER-2010-0274<sup>2</sup>. The Commission should take evidence in this case on the issue of whether the Wabash and AEP contracts are long-term full or partial requirements contracts for purposes of its fuel adjustment clause for the period October 1, 2009, through June 20, 2010. If not, then the issue should be left to be addressed in Staff's second prudence review—for the period October 1, 2009, through May 31, 2011, which Staff will begin in early September 2011, or another case initiated by another party.

WHEREFORE, Staff provides the foregoing as its response to the Commission's August 24, 2011, Order Directing Filing.

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<sup>1</sup> Effective June 1, 2010, Ameren Missouri's tariff was revised to limit the exception for long-term full or partial requirements contracts for purposes of its fuel adjustment clause to municipal contracts.

<sup>2</sup> In its June 29, 2011, Report and Order in File No. ER-2010-0274, where Ameren Missouri's first true-up amount under its fuel adjustment clause was in issue, the Commission ordered Ameren Missouri to include the impacts of corrected NBFC rates not only for that true-up, but also for future true-ups where Ameren Missouri had used the "uncorrected" NBFC rates for the related recovery periods. In that case Ameren Missouri did not argue the Commission lacked authority to address the issue for future true-ups.

Respectfully submitted,

**/s/ Nathan Williams**

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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 electronically mailed to all counsel of record this 29<sup>th</sup> day of August 2011.

**/s/ Nathan Williams**