

141FERC ¶ 61,264
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
Cheryl A. LaFleur, and Tony T. Clark.

Ameren Illinois Company

Docket No. ER13-312-000

ORDER CONDITIONALLY ACCEPTING AND SUSPENDING UPDATED
DEPRECIATION RATES AND ESTABLISHING HEARING
AND SETTLEMENT JUDGE PROCEDURES

(Issued December 31, 2012)

1. In this order, the Commission conditionally accepts for filing Ameren Illinois Company's (Ameren Illinois) updated depreciation accrual rates for use in the calculation of its Annual Transmission Revenue Requirement (ATTR), and suspends the rates for a nominal period, to become effective January 2, 2013, subject to refund, and establishes hearing and settlement judge procedures. We also direct Ameren Illinois to submit a compliance filing, as discussed below.

I. Background

2. Ameren Illinois is a wholly-owned subsidiary of Ameren Corporation. Ameren Illinois engages in the sale of electric energy subject to the Commission's jurisdiction, provides distribution service to wholesale and retail customers in Illinois, and provides power sales services to retail customers located in Illinois.

3. Ameren Illinois is also a transmission-owning member of Midwest Independent Transmission System Operator, Inc. (MISO), whose transmission facilities form the Ameren Illinois pricing zone within MISO. The ATTR for Ameren Illinois' facilities in the Ameren Illinois pricing zone is established pursuant to Attachment O-AIC of the MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff), which currently uses historical FERC Form No. 1 data.

4. Ameren Illinois will transition to a forward-looking formula rate, effective, January 1, 2013, under a revised Attachment O-AIC, which was accepted on

November 14, 2012, subject to the outcome of the Commission's ongoing investigation into MISO's formula rate protocols.¹

5. On November 2, 2012, Ameren Illinois submitted, pursuant to section 205 of the Federal Power Act (FPA)² and Order No. 618,³ a Request for Approval of Updated Depreciation Accrual Rates in the calculation of its ATRR for transmission services under the MISO Tariff. Ameren Illinois states that the proposed annual depreciation rates were calculated as of December 31, 2011, based on the following: (1) the electric plant and the accumulated provision for depreciation (book reserve) balances as of that date; (2) the straight line method of depreciation; (3) the average service life procedure; and (4) the average remaining life basis.⁴ As part of its filing, Ameren Illinois submitted a depreciation study and direct testimony comparing the existing accrual rates with the proposed accrual rates.⁵

6. Ameren Illinois states that use of the updated depreciation accrual rates produces an increase under the Ameren Illinois Attachment O-AIC ATRR of approximately \$2,076,762, or about 1.8 percent of the Ameren Illinois ATRR, of which \$1,805,443 is attributable to transmission plant and \$271,319 is attributable to general plant. Ameren Illinois represents that the changes in depreciation accrual rates do not affect the total amount of costs recovered over time, only the timing of this recovery, and thus while there is an increase in the revenue requirement under Attachment O-AIC, effective 2013 (recovered through a later true-up), that amount will be offset in future years.⁶

¹ See *Midwest Independent Transmission Sys. Operator, Inc.*, 141 FERC ¶ 61,121 (2012) (November 14, 2012 Order).

² 16 U.S.C. § 824e (2006).

³ Ameren Illinois Transmittal Letter at 1 (citing *Depreciation Accounting*, Order No. 618, FERC Stats. & Regs., Regulations Preambles 1996-2000 ¶ 31,104 (2000)).

⁴ *Id.* at 5.

⁵ See Exhibits AIC-1 through AIC-3.

⁶ Ameren Illinois Transmittal Letter at 6-7. Ameren Illinois notes that the revisions to depreciation rates were not filed at the time it calculated its projected ATRR for the 2013 rate year and, as a result, changes to transmission and general plant depreciation accrual rates will not be reflected in 2013 rates but reflected in the true-up for the 2013 rate year, which is calculated in 2014 and reflected in

7. Ameren Illinois further requests Commission approval of the proposed depreciation accrual rates for distribution plant, but states that the proposed new accrual rates will have no impact on Ameren Illinois' rates for service under the MISO Tariff over Ameren Illinois distribution facilities until Ameren makes a section 205 filing to change such rates.⁷

8. Ameren Illinois submitted its request as a single-issue section 205 filing. Ameren Illinois states that the Commission has found that single-issue section 205 filings are appropriate for updating depreciation rates because they allow the proceedings to have a narrow scope when only one component of a rate is at issue.⁸ Ameren Illinois further states that the use of a single-issue section 205 filing for revisions to depreciation rates is justified because such changes do not change the overall amount of costs recovered, only the timing of recovery.⁹

9. Ameren Illinois requests an effective date of January 1, 2013. Ameren Illinois also requests waiver of the full requirements of 18 C.F.R. § 35.13¹⁰ because its request is a single-issue section 205 filing and good cause exists for granting waiver of the requirement to file the full range of information required.¹¹

II. Notice of Filing and Responsive Pleadings

10. Notice of Ameren Illinois' filing was published in the *Federal Register*, 77 Fed. Reg. 67,641 (2012), with interventions and comments due on or before November 23, 2012. Timely motions to intervene were filed by Prairie Power, Inc. (Prairie Power); the Illinois Municipal Electric Agency (Illinois Municipal);

2015 rates.

⁷ *Id.* at 4 n.10.

⁸ *Id.* at 3 (citing *Arizona Public Service Co.*, Letter Order, Docket No. ER11-4184 (Sept. 26, 2011); *Old Dominion Electric Coop.*, 133 FERC ¶ 61,261 (2010); *Southern Company Services, Inc.*, Letter Order, Docket No. ER11-4284 (Sept. 16, 2011); *ITC Midwest LLC*, Letter Order, Docket No. ER10-2110 (Sept. 2, 2010); *Michigan Electric Transmission Co., LLC*, Letter Order, Docket No. ER10-185 (Dec. 18, 2009)).

⁹ *Id.* (citing *Xcel Energy Services, Inc.*, 121 FERC ¶ 61,284, at P 72 n.81 (2007); *Mich. Electric Transmission Co.*, 117 FERC ¶ 61,314, at P 17 (2006), *order on reh'g*, 118 FERC ¶ 61,139 (2007)).

¹⁰ 18 C.F.R. § 35.13 (2012).

¹¹ Ameren Illinois Transmittal Letter at 7 n.27.

Hoosier Energy Rural Electric Cooperative, Inc. (Hoosier) and Southern Illinois Power Cooperative (Southern Illinois); and Wabash Valley Power Association, Inc. (Wabash). Southwestern Electric Cooperative, Inc. (Southwestern) filed a motion to intervene, motion to reject depreciation rates, alternative protest, and request for maximum suspension (Southwestern Protest). Hoosier, Illinois Municipal, Prairie Power, Southern Illinois, and Wabash (Joint Parties) jointly filed a protest (Joint Parties Protest). On December 6, 2012, Ameren Illinois filed a motion for leave to answer and answer. On December 21, 2012, the Joint Parties filed an answer to Ameren Illinois' motion for leave to answer and answer.

Protests

11. Southwestern argues that the Commission should reject Ameren Illinois' request for new depreciation rates for transmission service because neither MISO's formula rate protocols nor Commission policy provide the right to submit a single-issue rate filing to update any component of the rate.¹² Southwestern states that the MISO formula rate protocols do not reserve the right to make single-issue rate filings and that Ameren Illinois' formula rate protocols, approved in the November 14, 2012 Order, do not include any provision that reserves the right to make single-issue rate filings for depreciation.¹³

12. Southwestern also argues that Commission policy and judicial precedent make clear that *ad hoc* and piecemeal ratemaking should be avoided, as such ratemaking can lead to unjust and unreasonable rates.¹⁴ Instead, according to Southwestern, the Commission favors the notion that "wholesale rates should ordinarily be adjusted only upon a comprehensive review of cost-of-service data."¹⁵ Southwestern points to *Southwestern Public Service*¹⁶ and *Houlton Water Company*¹⁷ as support that the Commission does not look at a single component of

¹² Southwestern Protest at 4.

¹³ *Id.* at 5.

¹⁴ *Id.*

¹⁵ Southwestern Protest at 5-6 (citing *Carolina Power & Light Co. v. FERC*, 860 F.2d 1097 (D.C. Cir. 1988)).

¹⁶ *Southwestern Public Service Co.*, 63 FERC ¶ 61,295, at 63,093 n.12 (1993).

¹⁷ *Houlton Water Co. v. Maine Pub. Serv. Co.*, 55 FERC ¶ 61,037, at 61,110 (1991).

the overall rate but rather to all components.¹⁸ In addition, Southwestern states that, in *American Electric Power Service Corp.*,¹⁹ the Commission rejected a discrete change to one component of cost-of-service as a piecemeal adjustment and reiterated its policy of disfavoring such single-issue adjustments.²⁰ Southwestern claims that the Commission confirmed this policy in Order No. 679, which established the Commission's incentive ratemaking policy.²¹

13. Southwestern contends that the cases Ameren Illinois relies upon as justification for its single-issue rate filing were letter orders accepting, but not approving, uncontested filings to change depreciation rates.²² Southwestern further argues that *Xcel*²³ and *Michigan Electric*,²⁴ which Ameren Illinois cites, do not discuss whether it is appropriate to use a single-issue rate filing to implement changes to depreciation or any other cost of service element.²⁵ Finally, Southwestern argues that Ameren Illinois' contention that changes in depreciation rates do not change the overall amount of cost recovery ignores the cost of removal component, the level of which changes over time due to changes in technology, changes in the value of recycled equipment and the cost of non-recyclable parts, among others, resulting in a greater or lesser net salvage value.²⁶

14. Southwestern requests that the Commission reject Ameren Illinois' single-issue rate filing in its entirety. Alternatively, Southwestern requests that the Commission establish hearing procedures to allow customers the opportunity to obtain adequate data with respect to Ameren Illinois' proposed service lives, net

¹⁸ Southwestern Protest at 6.

¹⁹ 80 FERC ¶ 63,006, at 65,059 (1997), *aff'd in relevant part*, 88 FERC ¶ 61,141 (1999).

²⁰ Southwestern Protest at 6.

²¹ *Id.* (citing *Promoting Transmission Investment through Pricing Reform*, Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 79 (2006)).

²² *Id.* at 7-8.

²³ *Xcel*, 121 FERC ¶ 61,284.

²⁴ *Michigan Electric*, 117 FERC ¶ 61,314.

²⁵ Southwestern Protest at 8-9.

²⁶ *Id.* at 9.

salvage, and cost of removal reserves.²⁷ Southwestern argues that this is necessary because Ameren Illinois' proposed depreciation rate is overstated and additional data is needed to determine whether the proposed depreciation rates produce just and reasonable rates.²⁸

15. Finally, Southwestern requests that the Commission suspend Ameren Illinois' filing for the maximum five-month statutory period.²⁹ Southwestern states that its preliminary analysis has shown that Ameren Illinois' failure to provide sufficient support for the depreciation rates it proposes fails to meet the *West Texas* standard for one-day suspension.³⁰

16. The Joint Parties argue that Ameren Illinois' instant filing is one of multiple filings over the past three years carefully calibrated to increase specific rates while limiting scrutiny on related rate issues.³¹ The Joint Parties note that Ameren Illinois' depreciation study was not presented in the context of its request for formula rates or in its filing for increased wholesale distribution service rates.³² In addition, the Joint Parties argue that Ameren Illinois' filing attempts an end-run around the Commission's filing requirements.³³ The Joint Parties state that the Commission allows single-issue rate filings only in exceptional and limited circumstances, such as for utilities seeking incentives for specific projects, as explained in Order No. 679.³⁴ Accordingly, the Joint Parties argue that when, as here, the utility files to increase its rates, the utility not only must file detailed information, it also places all of its rate components under Commission review.³⁵

²⁷ *Id.* at 9-10.

²⁸ *Id.* at 10-11.

²⁹ *Id.* at 13.

³⁰ *Id.* (citing *West Texas Utilities Co.*, 18 FERC ¶ 61,189 (1982) (*West Texas*)).

³¹ Joint Parties Protest at 2.

³² *Id.* at 2-3.

³³ *Id.* at 3.

³⁴ *Id.* at 4-5.

³⁵ *Id.* at 3.

17. The Joint Parties argue that none of the five letter orders that Ameren Illinois cites provide any precedential authority that single-issue rate filings are appropriate for filings to update depreciation rates, because none of the five filings were protested and, in all five, the Commission accepted the filings but did not approve them.³⁶ The Joint Parties also contend that the *Xcel* and *Michigan Electric* cases do not support Ameren Illinois' assertion that the Commission has allowed single-issue rate filings to revise depreciation rates "because such changes do not change the overall amount of costs recovered, only the timing of the recovery."³⁷ The Joint Parties argue that Ameren Illinois cannot support its claim that its filing matches the filings made in the *Xcel* and *Michigan Electric* cases because those cases involved revisions to formula rates that did not include a change in rates.³⁸ In such cases, according to the Joint Parties, the Commission is not reviewing, much less accepting and approving, specific cost amounts and rate increases. Here, the Joint Parties contend, Ameren Illinois has filed not just to change its depreciation rate but for a specific rate increase based on changes to the components of that rate as demonstrated by its depreciation study.³⁹

18. The Joint Parties argue that important policy considerations militate against adopting Ameren Illinois' single-issue argument.⁴⁰ The Joint Parties contend that allowing single issue rate filings would open the floodgates for abuse in which utilities file incremental rate increases to avoid any general overview or a five-month suspension. The Joint Parties state that the Commission has made clear that single-issue rate making is a narrow exception, permitted only in well-defined circumstances where there has been a clear showing that certain rate incentives are required.⁴¹ The Joint Parties assert that Ameren Illinois' filing patently fails to meet the Commission's Part 35 filing requirements and, therefore, should be summarily rejected. Further, the Joint Parties argue that, as a single-issue rate filing that does not fall under the prior-approved exceptions, the filing cannot be permitted.

³⁶ *Id.* at 6-7.

³⁷ *Id.* at 7.

³⁸ *Id.* at 8.

³⁹ *Id.* at 9.

⁴⁰ *Id.*

⁴¹ *Id.* at 10.

19. In addition, the Joint Parties claim that Ameren Illinois has not provided an adequate record basis for its proposed increase.⁴² The Joint Parties claim that Ameren Illinois presents a study that raises serious factual questions.⁴³ Among other things, the Joint Parties note that, throughout the wholesale distribution service proceedings before the Commission in Docket No. ER11-2777, *et al.*, Ameren Illinois claimed that it lacked important facility records to substantiate several elements of its wholesale distribution service cost of service, but now purports to advance a depreciation study covering both transmission and wholesale distribution service facilities based on its “continuing property records and other accounting records of Ameren Illinois’ operations, as well as those of its predecessor companies.”⁴⁴ In this regard, however, the Joint Parties state that the study does not provide any information as to the net salvage estimates and none of the data used to develop the net salvage values is provided.⁴⁵ Lastly, the Joint Parties argue that based on a recent Initial Decision there is serious question Ameren Illinois’ depreciation study may or may not be relevant for determining a wholesale distribution service depreciation rate.⁴⁶ Accordingly, the Joint Parties assert that Ameren Illinois should separately make future section 205 filings “to refile for depreciation appropriate to the facilities actually used to provide wholesale distribution service at such time as it files new rates for that service.”⁴⁷

Answers

20. In its answer, Ameren Illinois asserts that Southwestern and the Joint Parties raise issues in their protests that do not merit rejection of the filing, imposition of a hearing, or any other condition and, therefore, the Commission should approve the updated depreciation accrual rates.⁴⁸ Ameren Illinois states that there is nothing improper about the timing of the filing because public utilities have the right to determine when to submit filings to change their rates.⁴⁹ Ameren

⁴² *Id.*

⁴³ *Id.* at 11.

⁴⁴ *Id.* at 3-4, quoting Ameren Illinois Transmittal Letter at 5.

⁴⁵ *Id.* at 11

⁴⁶ *Id.* at 12-13

⁴⁷ *Id.*

⁴⁸ Ameren Illinois Answer at 1.

⁴⁹ *Id.* at 4-5.

Illinois also states that it used the same records to develop its updated depreciation accrual rates as were provided to parties in the wholesale distribution service proceeding.⁵⁰

21. Further, Ameren Illinois contends that the protesters' attacks on the use of a single-issue section 205 rate proceeding are unavailing.⁵¹ Ameren Illinois argues that a single-issue section 205 rate proceeding is appropriate because simply changing the depreciation accrual rate does not change the overall amount of costs recovered, only the timing of recovery.⁵² Ameren Illinois also asserts that the Commission has found the use of single-issue section 205 filings to be appropriate for depreciation rate filings.⁵³ Ameren Illinois states that Order No. 618 requires a change in depreciation rates that affect transmission to be separately filed with the Commission even if the utility uses formula rates.⁵⁴ Thus, according to Ameren Illinois, a single-issue section 205 filing to address this one component of Attachment O-AIC is appropriate.⁵⁵

22. Moreover, Ameren Illinois rejects Southwestern's claim that the use of a single-issue section 205 rate filing is contrary to the Attachment O-AIC formula rate protocols because nothing in these protocols or the MISO Tariff prohibits the use of a single-issue section 205 rate filing.⁵⁶ Ameren Illinois refutes Southwestern's and the Joint Parties' claims that it must re-open the entire Attachment O-AIC formula rate when seeking to change its depreciation accrual rate.⁵⁷ Ameren Illinois states that re-opening the ATRR is beyond the scope of this proceeding and requests to do so have no substantive merit.⁵⁸ Ameren Illinois also asserts that the change in depreciation accrual rates does not change the value

⁵⁰ *Id.* at 7.

⁵¹ *Id.*

⁵² *Id.* at 7-8.

⁵³ *Id.* at 9-10 (citing *Fla. Power Corp.*, 134 FERC ¶ 61,145 (2011)).

⁵⁴ *Id.* at 8-9 (citing Order No. 618, FERC Stats. & Regs. ¶ 31,104 at 31,695 n.25).

⁵⁵ *Id.*

⁵⁶ *Id.* at 10.

⁵⁷ *Id.* at 12.

⁵⁸ *Id.*

of the underlying asset, and does not result in any double-recovery or over-recovery of costs.⁵⁹ Regarding Southwestern's claims about the impact of changes in removal costs and salvage value, Ameren Illinois argues that customers will be protected from the impact of changes in net salvage because the actual net salvage value or cost is credited to Ameren Illinois' removal reserves at the time the asset is retired. According to Ameren Illinois, this in effect trues-up projected net salvage values with actual net salvage values and ensures that Ameren Illinois neither over-recovers nor under-recovers these costs.⁶⁰

23. Ameren Illinois also states that its depreciation rates were properly calculated and fully supported.⁶¹ According to Ameren Illinois, the depreciation report and underlying study took a systematic and rational approach that is consistent with standard depreciation accounting practices to derive the revised depreciation accrual rates for Ameren Illinois and satisfy the requirements of Order No. 618.⁶²

24. Ameren Illinois asserts that there is no basis for the Joint Parties' argument that Ameren Illinois should have to separately file for approval to change the depreciation accrual rates for the facilities used to provide wholesale distribution service, nor for their assertion that the Commission should reject any application of the depreciation accrual rates to the wholesale distribution service facilities.⁶³

25. Finally, Ameren maintains that the requests for a hearing and five-month suspension should be rejected.⁶⁴ Ameren Illinois argues that Southwestern and the Joint Parties fail to justify establishing an evidentiary hearing and that the Commission can resolve the issues presented in this proceeding based on the submitted testimony and depreciation study.⁶⁵ Moreover, Ameren Illinois argues that the Commission should reject Southwestern's request for a five-month suspension because it has demonstrated that its revised depreciation rates are just and reasonable and will not be reflected in rates until 2014 and 2015 when the true

⁵⁹ *Id.* at 13-14.

⁶⁰ *Id.*

⁶¹ *Id.* at 14.

⁶² *Id.* at 16 (citing Order No. 618, FERC Stats. & Regs. ¶ 31,104 at 31,694).

⁶³ *Id.* at 17.

⁶⁴ *Id.*

⁶⁵ *Id.* at 17-18.

up of the 2013 rate goes into effect; therefore, granting the five-month suspension would offer little protection to consumers.⁶⁶

26. In responding to arguments made in Ameren Illinois' motion for leave to answer and answer, the Joint Parties assert that Ameren Illinois is incorrect that the Commission has a well-established policy to accept single-issue section 205 rate filings to update depreciation rates.⁶⁷ Moreover, the Joint Parties argue that the fact that nothing in the Midwest ISO Attachment O Protocols bars the use of a single-issue section 205 filing, is beside the point and that nowhere does the Attachment O specifically permit single-issue rate filings.⁶⁸ The Joint Parties further state that should the Commission accept Ameren Illinois' single-issue rate filing the Commission will be overturning established practice and Commission regulations.⁶⁹ Consequently, the Joint Parties maintain the result would likely guarantee that virtually no filing will go un-protested.⁷⁰

27. The Joint Parties contend that Ameren Illinois' answer fails to provide support for its increased depreciation rates and raises further questions.⁷¹ According to the Joint Parties this is because Ameren Illinois fails to provide any underlying study as a basis for the analysis made in the attached affidavit to Ameren Illinois' answer.⁷² The Joint Parties maintain that, assuming the Commission does not reject Ameren Illinois' filing, there should be a hearing.⁷³

28. Finally, the Joint Parties assert that Ameren Illinois provides no basis for applying its increased rates to wholesale distribution service. Specifically, the Joint Parties argue that the fact that the depreciation accrual rates for distribution plant are carved out for examination and challenge does not alone demonstrate they are reasonable.⁷⁴ The Joint Parties maintain that Ameren Illinois previously

⁶⁶ *Id.* at 19-20.

⁶⁷ Joint Parties Answer at 4.

⁶⁸ *Id.* 5-6.

⁶⁹ *Id.* at 6.

⁷⁰ *Id.*

⁷¹ *Id.* at 6-7.

⁷² *Id.* at 7.

⁷³ *Id.*

⁷⁴ *Id.* at 9.

failed to properly allocate transmission and distribution costs in an Initial Decision now pending before the Commission and there is no reason to assume costs are properly allocated in this proceeding.⁷⁵ Furthermore, the Joint Parties state that there has been no real opportunity to examine the proposed rates and that discovery will be necessary.⁷⁶

III. Discussion

A. Procedural Matters

29. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,⁷⁷ the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

30. Rule 212(a)(2) of the Commission's Rules of Practice and Procedure,⁷⁸ prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept Ameren Illinois' answer and the Joint Parties' answer because the answers provided information that assisted us in our decision-making process.

B. Commission Determination

31. Ameren Illinois' request for approval of updated depreciation accrual rates for use in its ATRR raises issues of material fact that cannot be resolved based on the record before us, and that are more appropriately addressed in the hearing and settlement judge procedures ordered below.

32. We are not persuaded by Southwestern's and the Joint Parties' arguments that Ameren Illinois' updated depreciation accrual rates should be rejected as an

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ 18 C.F.R. § 385.214 (2012).

⁷⁸ 18 C.F.R. § 385.213(a)(2) (2012).

impermissible single-issue filing.⁷⁹ Ameren Illinois' filing seeks to change one component of its rate which only affects the timing of recovery of the costs and does not change the overall amount of recovery. The change to the depreciation accrual rates does not change the value of the underlying asset, and would not result in any over- or under-recovery of costs.⁸⁰ In this circumstance, we find that it is appropriate to consider the change in depreciation alone, consistent with *Xcel* and *Michigan Electric*.⁸¹

33. Moreover, we are not persuaded by Southwestern's argument that Ameren Illinois is prohibited from making a single-issue rate filing because of MISO's forward-looking formula rate protocols. These protocols do not restrict Ameren

⁷⁹ Citing a prior court case and Commission orders (*Carolina Power & Light Co. v. FERC*, 860 F.2d 1097 (D.C. Cir. 1988); *Houlton Water Co. v. Maine Pub. Serv. Co.*, 55 FERC ¶ 61,037, at 61,110 (1991); *Southwestern Public Service Co.*, 63 FERC ¶ 61,295, at 63,093 n.12 (1993); and *Am. Elec. Power Serv. Corp.*, 80 FERC ¶ 63,006, at 65,059 (1997), *aff'd in relevant part*, 88 FERC ¶ 61,141 (1999)), Southwestern argues that the Commission disfavors single-issue rate filings. However, these cases involve the Commission's policy disfavoring selective out-of-period adjustments to test period data or changes to rates to reflect changes in certain component costs, without considering offsetting effects due to changes in other component costs. In contrast, as explained below, the change in depreciation accrual rates only affects the timing of recovery—not the amount of recovery—of transmission and general plant costs through Ameren Illinois' rate formula.

⁸⁰ We disagree with Southwestern's claims about the impact of changes in estimated removal costs and salvage values included in depreciation rates. Any differences upon retirement between the actual cost of removal and salvage value and amounts collected for such net salvage costs will be trued-up in the depreciation accounts at the time the asset is retired, ensuring that Ameren Illinois neither over-recovers or under-recovers these costs. Thus, estimated removal costs and salvage values included in depreciation rates do not affect the overall amount of recovery.

⁸¹ See *Xcel*, 121 FERC ¶ 61,284 at P 72 n.81; *Mich. Electric Transmission Co.*, 117 FERC ¶ 61,314 at P 17, *order on reh'g*, 118 FERC ¶ 61,139 (2007). See also, *Boston Edison Co.*, 65 FERC ¶ 61,311, at 62,427 (1993) (finding that it is appropriate to consider an increase in the decommissioning component of a rate without considering the unchanged return on equity component, because the increase in the decommissioning component did not affect the company's earnings).

Illinois' right to make a section 205 filing to update its depreciation accrual rates.

34. Finally, responding to Joint Parties' arguments that Ameren Illinois should separately make future section 205 filings for depreciation appropriate to the actual facilities used to provide wholesale distribution service, at such time as it files new rates for that service, we note that Ameren Illinois is not proposing to change wholesale distribution service rates in this proceeding to reflect revised distribution depreciation rates for wholesale distribution service customers. Therefore, we do not consider Ameren Illinois' revised distribution depreciation rates to be before us in this section 205 proceeding. If and when Ameren Illinois makes a section 205 filing to change wholesale distribution service rates to reflect revised distribution depreciation rates, we will consider them at that time.

35. Our preliminary analysis indicates that Ameren Illinois' proposed depreciation accrual rates for use in its ATRR have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. However, we deny Southwestern's request for a five-month suspension. In *West Texas*, the Commission explained that, when the Commission's preliminary analysis indicates that proposed rates may be unjust and unreasonable and substantially excessive, the Commission will generally suspend the rate for the maximum five-month statutory period.⁸² In the instant proceeding, our preliminary analysis indicates that the proposed depreciation accrual rates for use in Ameren Illinois' ATRR may not be substantially excessive. Therefore, we will conditionally accept Ameren Illinois' proposed depreciation accrual rates for use in its ATRR, suspend them for a nominal period, to become effective January 2, 2013, subject to refund, and set them for hearing and settlement judge procedures.⁸³

⁸² *West Texas*, 18 FERC at 61,374-75 (the Commission will suspend a proposed rate for the maximum period, five months, if the proposed rate increase is found to be substantially excessive); *Tucson Elec. Co.*, 76 FERC ¶ 61,235, at 62,147 & n.25-26 (1996).

⁸³ Although Ameren Illinois requests a January 1, 2013 effective date, absent waiver, January 2, 2013 is the earliest date that the proposed rate changes can be made effective (i.e., after 60-day notice or on the 61st day after filing). See *ISO New England Inc.*, 123 FERC ¶ 61,300, at P 13 n.4 (2008) (citing *Utah Power & Light Co.*, 30 FERC ¶ 61,015, at 61,024 n.9 (1985)). See also *Central Hudson Gas & Electric Co.*, 60 FERC ¶ 61,106, *reh'g denied*, 61 FERC ¶ 61,089 (1992); *Prior Notice and Filing Requirements Under Part II of the Federal Power Act*, 64 FERC ¶ 61,139, *clarified*, 65 FERC ¶ 61,081 (1993).

36. While we are setting this matter for a trial-type evidentiary hearing, we encourage the parties to make every effort to settle their disputes before hearing procedures are commenced. To aid the parties in their settlement efforts, we will hold the hearing in abeyance and direct that a settlement judge be appointed, pursuant to Rule 603 of the Commission's Rules of Practice and Procedure.⁸⁴ If the parties desire, they may, by mutual agreement, request a specific judge as a settlement judge in the proceeding; otherwise the Chief Judge will select a judge for this purpose.⁸⁵ The settlement judge shall report to the Chief Judge and the Commission within 30 days of appointment of the settlement judge concerning the status of settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions or provide for the commencement of a hearing by assigning the case to a presiding judge.

37. In addition, we direct Ameren Illinois to make a compliance electronic (eTariff) filing of its tariff within 30 days of the issuance of this order in order to include its revised depreciation rates in its Attachment O-AIC. Ameren Illinois' Attachment O-AIC provides for depreciation expenses to be recovered under its formula rate but does not include the fixed components showing its depreciation rates. As required in *Old Dominion*,⁸⁶ Ameren Illinois is directed to submit revised tariff sheets for its Attachment O-AIC to state all fixed components of its formula rate.

⁸⁴ 18 C.F.R. § 385.603 (2012).

⁸⁵ If the parties decide to request a specific judge, they must make their request to the Chief Judge by telephone at 202-502-8500 within five (5) days of the date of this order. The Commission's website contains a list of Commission judges available for settlement proceedings and a summary of their background and experience (<http://www.ferc.gov/legal/adr/avail-judge.asp>).

⁸⁶ See *Old Dominion Electric Cooperative*, 133 FERC ¶ 61,261, at P 5 (2010) (stating that all fixed components of a rate must be included in tariff or rate schedules for public inspection pursuant to section 205(c) of the Federal Power Act).

38. Finally, we grant Ameren Illinois' request for waiver of the requirements of section 35.13 of the Commission's regulations,⁸⁷ consistent with our prior approval of formula rates.⁸⁸

The Commission orders:

(A) Ameren Illinois' updated depreciation accrual rates under the Ameren Illinois ATRR is hereby conditionally accepted, suspended for a nominal period, to become effective January 2, 2013, subject to refund, and subject to Ameren Illinois making a compliance filing within 30 days of the date of issuance of this order to include its revised depreciation accrual rates in its Attachment O-AIC, as discussed in the body of this order.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 C.F.R., Chapter I), a public hearing shall be held concerning Ameren Illinois' proposed updated depreciation accrual rates for use in its ATRR. However, the hearing shall be held in abeyance to provide time for settlement judge procedures, as discussed in Ordering Paragraphs (D) and (E) below.

(C) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure,⁸⁹ the Chief Administrative Law Judge is hereby directed to appoint a settlement judge in this proceeding within fifteen (15) days of the date of this order. Such settlement judge shall have all powers and duties enumerated in Rule 603 and shall convene a settlement conference as soon as practicable after the Chief Judge designates the settlement judge. If the parties decide to request a specific judge, they must make their request to the Chief Judge within five (5) days of the date of this order.

(D) Within thirty (30) days of the appointment of the settlement judge, the settlement judge shall file a report with the Commission and the Chief Judge on the status of the settlement discussions. Based on this report, the Chief Judge

⁸⁷ 18 C.F.R. § 35.13 (2012).

⁸⁸ *DATC Midwest Holdings, LLC*, 139 FERC 61,224, at P 98 (2012); *Midwest Independent Transmission System Operator, Inc.*, 138 FERC 61,234, at P 19 (2012).

⁸⁹ 18 C.F.R. § 385.603 (2012)

shall provide the parties with additional time to continue their settlement discussions, if appropriate, or assign this case to a presiding judge for a trial-type evidentiary hearing, if appropriate. If settlement discussions continue, the settlement judge shall file a report at least every sixty (60) days thereafter, informing the Commission and the Chief Judge of the parties' progress toward settlement.

(E) If settlement judge procedures fail and a trial-type evidentiary hearing is to be held, a presiding judge, to be designated by the Chief Judge, shall, within fifteen (15) days of the date of the presiding judge's designation, convene a prehearing conference in these proceedings in a hearing room of the Commission, 888 First Street, NE, Washington, DC 20426. Such a conference shall be held for the purpose of establishing a procedural schedule. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.