

SECURITIES AND EXCHANGE COMMISSION

(Release No. 35-28075; 70-8945)

Ameren Corp., et al.

Supplemental Order Requiring Divestiture, Authorizing Issuance of Note, and Making Certain Findings to Allow the Realization of Certain Tax Benefits

December 13, 2005

Ameren Corporation (“Ameren”), a registered holding company, of St. Louis, Missouri, CIPSCO Investment Company (“CIPSCO Investment”), a wholly owned subsidiary of Ameren, and CIPSCO Investment’s wholly owned subsidiary, CIPSCO Leasing Company (“CIPSCO Leasing”), both of Springfield, Illinois, and AmerenEnergy Resources Generating Company (“AERG”), a wholly owned indirect electric utility company subsidiary of Ameren, of Peoria, Illinois (collectively, “Applicants”), have filed post-effective amendment (“Post-Effective Amendment”) to an application-declaration under sections 6(a), 7, 9(a), 10, 11(b)(1), 12(b) and 12(f) of the Public Utility Holding Company Act of 1935, as amended (“Act”) and rules 45 and 54 under the Act. On November 4, 2005, the Commission issued a notice of the Post-Effective Amendment (HCAR No. 28057). No request for a hearing was received.

As described more fully below, Applicants seek an order that requires the divestiture of CIPSCO Leasing’s wholly-owned subsidiary, CLC Aircraft Leasing Company (“CLC”) or of CLC’s 100% interest in an MD-88 commercial passenger aircraft that is leased to Delta Air Lines, Inc. (“Delta”). Applicants also request authorization for related transactions and the making of certain findings in connection with the realization of certain tax benefits.

I. Background

A. The Ameren System

Ameren directly owns all of the issued and outstanding common stock of Union Electric Company, doing business as “AmerenUE,” Central Illinois Public Service Company, doing business as “AmerenCIPS,” and Illinois Power Company doing business as “AmerenIP,” and indirectly through CILCORP Inc., an exempt holding company, owns all of the issued and outstanding common stock of Central Illinois Light Company, doing business as “AmerenCILCO.”

Together, AmerenUE, AmerenCIPS, AmerenIP and AmerenCILCO provide retail and wholesale electric service to approximately 2.3 million customers and retail natural gas service to approximately 935,000 customers in parts of Missouri and Illinois. In addition, AmerenCILCO holds all of the outstanding common stock of AERG. AERG is a non-exempt electric utility generating subsidiary to which AmerenCILCO transferred substantially all of its generating assets in October 2003.

Ameren also directly owns all of the issued and outstanding common stock of CIPSCO Investment, a non-utility subsidiary that in turn owns all of the issued and outstanding common stock of, among other subsidiaries, CIPSCO Leasing. CIPSCO Leasing, directly or through subsidiaries, invests in certain long-term leveraged lease transactions. As relevant to this Post-Effective Amendment, CIPSCO Leasing’s wholly-owned subsidiary, CLC, holds a 100% interest as the owner participant in an MD-88 commercial passenger aircraft that is leased to Delta (the “Aircraft Lease Interest”).

B. Prior Order

By order dated December 30, 1997, in this matter (HCAR No. 26809) (the “Merger Order”), the Commission authorized Ameren to acquire all of the issued and outstanding common stock of AmerenUE and CIPSCO Incorporated, which was then the parent company of AmerenCIPS, to organize a service company subsidiary, and to issue and sell common stock pursuant to certain stock plans. In addition, the Commission authorized Ameren to retain the direct and indirect non-utility subsidiaries and investments of AmerenUE and CIPSCO Incorporated, subject to certain exceptions. Specifically as it relates to this order, the Commission determined that the Aircraft Lease Interest was retainable under section 9(c)(3) of the Act.

Although the Aircraft Lease Interest is a “passive” investment, CIPSCO Leasing has already captured the tax benefits (in the form of accelerated depreciation) associated with the leased equipment. Thus, the economic characteristics associated with this investment are no longer the same as they were at the time of the Merger Order. Ameren asserts that the Aircraft Lease Interest is not retainable under the standards of either section 11(b)(1) of the Act or under Commission precedents interpreting section 9(c)(3) of the Act.

Ameren requests that the Commission: (i) require Ameren to sell or otherwise dispose of the Aircraft Lease Interest or of the equity securities of CLC Aircraft not later than February 8, 2006;¹ (ii) conclude that such sale or disposition of the Aircraft Lease

¹ On August 8, 2005, the President signed the Energy Policy Act of 2005, P.L. 109-58, 119 Stat. 594, into law which, among other things, repeals the Act effective six months after the date of enactment (*i.e.*, February 8, 2006). The transactions described in this Post-Effective Amendment incidental to the divestiture of the Aircraft Lease Interest may, in fact, be carried out after the effective date of repeal of the Act.

Interest or of the equity securities of CLC Aircraft is necessary or appropriate to the integration or simplification of the Ameren holding company system and to effectuate the provisions of section 11(b)(1); (iii) require that the net proceeds from such sale or disposition be utilized within 24 months of the receipt to retire or cancel securities representing indebtedness of the transferor or otherwise expended for property other than “nonexempt property” within the meaning of section 1083 of the Internal Revenue Code, as amended (the “Code”) or invested as a contribution to the capital, or as paid-in surplus, of another direct or indirect subsidiary of Ameren in a manner that satisfies the nonrecognition provisions of Code section 1081; and (iv) conclude that such expenditure or investment by the transferor is necessary or appropriate to the integration or simplification of the Ameren holding company system.

C. Summary of Relevant Provisions of the Code

Ameren states that Code section 1081(b)(1) provides for the nonrecognition of gain or loss from a sale or exchange of property made in obedience to a Commission order. Code section 1082(a)(2) requires that any unrecognized gain under Code section 1081(b)(1) be applied to reduce the basis of the transferor’s remaining assets in a specified manner.

Ameren submits that an exception from this nonrecognition treatment exists under Code section 1081(b)(2), which specifies that if property received in connection with any sale or disposition is “nonexempt property,” then such “nonexempt property” or an amount equal to the fair market value of such “nonexempt property” must, within 24 months of the time of the transfer, in accordance with an order of the Commission, be expended for property other than “nonexempt property” or invested as a contribution to

the capital, or as paid-in surplus, of another corporation, and the Commission's order recites that such expenditure or investment by the transferor corporation is necessary or appropriate to the integration or simplification of the holding company system of which the transferor corporation is a member. Code section 1081(b)(3) provides that an appropriate expenditure for property other than "nonexempt property" for purposes of Code section 1081(b)(2) includes each of (1) a payment in complete or partial retirement or cancellation of securities representing indebtedness of the transferor and (2) the amount of any liability of the transferor that is assumed (or to which transferred property is subject) in connection with any transfer of property in obedience to a Commission order.

Ameren further submits that Code section 1081(d) provides for the nonrecognition of gain or loss from certain intercompany transactions within the same system group if such transactions are made in obedience to a Commission order.

D. Transactions Incident to the Sale of the Aircraft Lease Interest

CIPSCO Leasing intends to seek a buyer or buyers for the Aircraft Lease Interest or of the equity securities of CLC Aircraft in a privately negotiated transaction.

Alternatively, as a result of the bankruptcy of Delta,² CLC Aircraft, as owner participant under the lease, may, in the bankruptcy proceeding, forfeit its beneficial interest (as owner participant) in the leased aircraft if the indenture trustee, on behalf of the debt participants in the leveraged lease transaction, exercises its remedy to take title to the

² On September 14, 2005, Delta and its subsidiaries filed voluntary petitions for reorganization under Chapter 11 of the U.S. Bankruptcy Code. The matter is pending before the U.S. Bankruptcy Court for the Southern District of New York.

aircraft.³ Applicants state that such transfer of the beneficial interest in the leased aircraft to the indenture trustee would be treated as a “sale” for federal income tax purposes for an amount equal to the outstanding balance of the leveraged lease debt. In either event, Ameren expects that such transfer will result in a significant amount of gain for federal income tax purposes. Accordingly, CIPSCO Leasing will structure any such transfer in a manner that will enable it to utilize the non-recognition provisions of Code section 1081.

In order to achieve this result, the Applicants will engage in a series of essentially simultaneous intercompany transactions the purpose of which is to structure the sale of the Aircraft Lease Interest or of the equity securities of CLC Aircraft to occur from a subsidiary of Ameren (in this case AERG) that has sufficient tax basis in similar classes of property to absorb the basis reductions required by Code section 1082(b).

More specifically, CIPSCO Leasing intends to engage in the following transactions (the “Proposed Transactions”):

1. On or prior to the closing date with respect to the sale of the Aircraft Lease Interest or of the equity securities of CLC Aircraft (the “Closing Date”), CIPSCO Leasing will transfer the stock of CLC Aircraft to AERG in exchange for a promissory note (the “AERG Note”) and/or cash (together, the AERG Note and the cash are referred to as the “AERG Consideration”).
2. On or prior to the Closing Date, Ameren will cause CLC Aircraft to convert into a Delaware limited liability company.⁴

³ Any such transfer would be qualified by and subject to any restriction or limitations on transfer set forth in the operative lease documents, the Bankruptcy Code, and other applicable law, including the Revised Interim Order Pursuant to Sections 105(a) and 362 of the Bankruptcy Code Establishing Notification Procedures and Approving Restriction on Certain Transfers of Claims against and Interests in the Debtors’ Estates entered in the Delta bankruptcy case on September 16, 2005.

⁴ By order dated December 18, 2003 (HCAR No. 27777) (the “December 2003 Order”), the Commission authorized Ameren and its non-utility subsidiaries to, among other things, convert the capital structure of non-utility subsidiaries from one business form to another.

3. On the Closing Date, AERG will either sell the Aircraft Lease Interest or the membership interests of CLC Aircraft to a buyer or buyers in exchange for consideration (which is expected to be nominal) or transfer the Aircraft Lease Interest and/or the membership interests of CLC Aircraft to the indenture trustee for the benefit of the debt participants in the existing leveraged lease structure, which, for federal income tax purposes, will be treated as a deemed sale of the Aircraft Lease Interest.
4. Within 24 months after such Closing Date, AERG will expend the consideration received from the buyer or buyers to reduce the AERG Note (if any) or will otherwise expend or invest such cash in accordance with Code section 1081(b).

As indicated, the Proposed Transactions are intended to allow Ameren to match the unrecognized gain from the sale of the Aircraft Lease Interest or of the membership interests of CLC Aircraft under Code section 1081(b) to AERG since AERG is one of the subsidiaries of Ameren that has a sufficiently high tax basis in other similar classes of property such that the unrecognized gain can be fully absorbed by the basis reductions required by Code section 1082(a)(2).

II. Requests for Authority

Ameren requests that the Commission authorize (1) AERG to acquire the stock of CLC Aircraft from CIPSCO Leasing and (2) AERG to issue and CIPSCO Leasing to acquire the AERG Note, in each case prior to February 8, 2006. The aggregate amount of the AERG Consideration (*i.e.*, AERG Note and/or cash) will be fixed on or before the Closing Date to be equal to or less than the amount of consideration (which may be nominal) agreed to be paid by the buyer or buyers of the Aircraft Lease Interest or of the membership interests of CLC Aircraft, such that the proceeds of the sale will be at least sufficient to enable AERG to retire the AERG Note (if any) on or shortly after the Closing Date; and, in any event will not exceed \$10 million. The AERG Note (if any)

will bear interest at a daily floating rate per annum (computed on the basis of a 360-day year consisting of twelve 30 day months) equal to the “1-Month Nonfinancial Commercial Paper” rate published by the Federal Reserve in its H.15 Selected Interest Rates publication.

III. Conclusion

The Commission finds that (1) the proposed disposition of the Aircraft Lease Interest or of the membership interests of CLC Aircraft through the Proposed Transactions will be a disposition for cash or cash equivalents in compliance with this supplemental order, (2) the application of the net proceeds to retire all or part of the AERG Note will be a complete or partial retirement of securities representing indebtedness of AERG, (3) the amount of liabilities assumed and the amount of liabilities to which transferred property is subject upon the disposition of the Aircraft Lease Interest or membership interests of CLC Aircraft through the Proposed Transactions will be an expenditure for property other than “nonexempt property” in compliance with this supplemental order, and (4) accordingly, each of the Proposed Transactions is necessary or appropriate to the integration or simplification of the Ameren holding company system and will effectuate the provisions of section 11(b)(1) of the Act.

Applicants state that, for purposes of rule 54, the conditions specified in rule 53(a) are satisfied, that none of the adverse conditions specified in rule 53(b) exist. As a result, the Commission will not consider the effect on the Ameren system of the capitalization or earnings of any system subsidiary that is an exempt wholesale generator or foreign utility company, as each is defined in sections 32 and 33 of the Act, respectively, in determining whether to approve the proposed transactions.

Applicants state that the expenses to be incurred in connection with the preparation and filing of the Application are estimated not to exceed \$5,000.

Applicants state that, other than this Commission, no state or federal commission has jurisdiction over the proposed transactions.

Due notice of the filing of the Post-Effective Amendment has been given in the manner prescribed by rule 23 under the Act, and no hearing has been requested of, or ordered by, the Commission. Based on the facts in the record, the Commission finds that the applicable standards of the Act are satisfied and no adverse findings are necessary.

IT IS ORDERED, under the applicable provisions of the Act and rules under the Act, that the Post-Effective Amendment (*Ameren Corp., et al.* 70-8945), as amended, is granted and permitted to become effective immediately, subject to the terms and conditions prescribed in rule 24 under the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz
Secretary