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AMEREN CORP  
Form POS AMC  
August 22, 2005

(As filed on August 22, 2005)

File No. 70-8945

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D. C. 20549

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POS AMC  
POST-EFFECTIVE AMENDMENT NO. 5  
to  
FORM U-1  
APPLICATION OR DECLARATION  
UNDER THE  
PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

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AMEREN CORPORATION  
1901 Chouteau Avenue  
St. Louis, Missouri 63103

CIPSCO INVESTMENT COMPANY  
CIPSCO LEASING COMPANY  
607 East Adams Street  
Springfield, Illinois 62739

AMERENENERGY RESOURCES GENERATING COMPANY  
300 Liberty Street  
Peoria, Illinois 61602

(Names of companies filing this statement and  
addresses of principal executive offices)

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AMEREN CORPORATION  
(Name of top registered holding company parent)

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Steven R. Sullivan  
Senior Vice President, General Counsel and Secretary  
Ameren Services Company  
1901 Chouteau Avenue  
St. Louis, Missouri 63103

(Name and address of agent for service)

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The Commission is requested to send copies of all notices, orders and other

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communications in connection with this Application/Declaration to:

Craig W. Stensland,  
Associate General Counsel  
Ameren Services Company  
1901 Chouteau Avenue  
St. Louis, Missouri 63103

William T. Baker, Jr., Esq.  
Thelen Reid & Priest LLP  
875 Third Avenue  
New York, New York 10022

ITEM 1. DESCRIPTION OF THE PROPOSED TRANSACTIONS.

1.1 Background. Ameren Corporation ("Ameren"), whose principal business address is at 1901 Chouteau Avenue, St. Louis, Missouri 63103, is a registered holding company under the Public Utility Holding Company Act of 1935, as amended (the "Act"). Ameren directly owns all of the issued and outstanding common stock of Union Electric Company, d/b/a "AmerenUE," Central Illinois Public Service Company, d/b/a "AmerenCIPS," and Illinois Power Company d/b/a "AmerenIP," and indirectly through CILCORP Inc. ("CILCORP"), an exempt holding company, owns all of the issued and outstanding common stock of Central Illinois Light Company, d/b/a "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 AmerenEnergy Resources Generating Company ("AERG"), 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 Company ("CIPSCO Investment"), a non-utility subsidiary that in turn owns all of the issued and outstanding common stock of, among other subsidiaries, CIPSCO Leasing Company ("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 Aircraft Leasing Company ("CLC Aircraft"), holds a 100% interest as the owner participant in an MD-88 commercial passenger aircraft that is leased to Delta Air Lines, Inc. ("Delta") (the "Aircraft Lease Interest").

1.2 Prior Proceedings. By order dated December 30, 1997, in this proceeding (Holding Co. Act Release 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.<sup>1/</sup> Specifically as it relates to this Post-Effective Amendment, the Commission determined that the Aircraft Lease Interest was retainable under Section 9(c)(3) of the Act.<sup>2/</sup> The Commission noted that it has previously authorized registered holding companies, pursuant to Section 9(c)(3) of the Act, to make similar types of passive investments, citing Central and South West Corporation, et al., 49 S.E.C. 323 (1985) ("CSW"). In CSW, the Commission

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1 By supplemental order in this proceeding dated June 27, 2001 (Holding Co. Act Release No. 27421), the Commission determined that certain limited liability company investments of CIPSCO Incorporated were retainable under the standards of Section 11(b)(1) of the Act.

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2 Under Section 9(c)(3) of the Act, the Commission may permit a registered holding company to acquire securities "in the ordinary course of business" if "not detrimental to the public interest or the interest of investors or consumers."

authorized a registered holding company to make passive equity investments in leveraged leases for the purpose of obtaining tax benefits in the form of accelerated depreciation and investment credits.

More recently, in an unrelated proceeding (File No. 70-10078), the Commission determined that a similar commercial aircraft lease interest held by an associate company of CIPSCO Leasing (CIM Air Leasing, Inc.) is not retainable under the standards of Section 11(b)(1) of the Act, since it is not reasonably incidental or economically necessary or appropriate to the operations of Ameren's integrated public utility business. Moreover, the Commission held the aircraft lease interest (as well as certain other lease investments held by associate companies of CIM Air Leasing, Inc.) are not retainable under Section 9(c)(3) of the Act noting, among other things, that CILCORP had already captured substantially all of the tax benefits (in the form of accelerated depreciation) available under the lease. Accordingly, the Commission directed Ameren to take steps to cause CIM Air Leasing, Inc. to divest the aircraft lease investment. See Ameren Corporation, et al., Holding Co. Act Release No. 27645 (Jan. 29, 2003).

1.3 Requested Findings under Section 11(b)(1) 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, this investment is no longer being held for the purpose of obtaining the tax benefits, as was the case at the time of the Merger Order. Ameren has concluded, therefore, consistent with the Commission's subsequent findings in File No, 70-10078, 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.

If the Commission concurs with Ameren's conclusion that the Aircraft Lease Interest is not retainable, then it is requested that the Commission issue a supplemental order in this proceeding to: (i) require Ameren to take the appropriate actions to cause CIPSCO Leasing to sell or otherwise dispose of the Aircraft Lease Interest; (ii) recite that such sale or disposition of the Aircraft Lease Interest 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 thereof 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) recite that such expenditure or investment by the transferor is necessary or appropriate to the integration or simplification of the Ameren holding company system./3/

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3 Section 1081(f) of the Code specifies that in order for section 1081 to apply to an exchange, investment, distribution or sale, the order of the Commission in obedience to which such transaction was made must recite that such transaction is necessary or appropriate to effectuate the provisions of Section 11(b) of the Act and specify and itemize the stock and securities and other

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property which are ordered to be acquired, transferred, received or sold.

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1.4 Summary of Relevant Provisions of the Code. 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.

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,"<sup>4</sup> 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.

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.

1.5 Transactions Incident to Sale of the Aircraft Lease Interest. CIPSCO Leasing intends to seek a buyer or buyers for the Aircraft Lease Interest in a privately negotiated transaction. Alternatively, in the event of the bankruptcy of Delta, CLC Aircraft, as owner participant under the lease, may forfeit its beneficial interest in the leased aircraft if the indenture trustee, on behalf of the debt holders, exercises its remedy to take title to the aircraft. 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, it is expected 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, Ameren will cause CIPSCO Leasing to engage in a series of essentially simultaneous intercompany transactions the purpose of which is to structure the sale of the Aircraft Lease Interest 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).

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4 The term "nonexempt property" is defined in Code section 1083(e) to include, among other things, cash and indebtedness of the transferor that is cancelled or assumed by the purchaser in the exchange.

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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 (the "Closing Date"), CIPSCO Leasing will transfer the stock of CLC Aircraft to AERG in exchange for a promissory note in the form of Exhibit B-7 hereto (the "AERG Note") and/or cash (together, the AERG Note and the cash are referred to herein 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./5/
3. On the Closing Date, AERG will either sell the CLC Aircraft membership interest and/or the leased assets either to a buyer or buyers in exchange for consideration (which is expected to be nominal) or transfer the CLC Aircraft membership interest and/or the leased assets to the indenture trustee for the benefit of the debt holders 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 or will otherwise expend or invest such cash in accordance with Code section 1081(b)./6/

As indicated, the Proposed Transactions are intended to allow Ameren to match the unrecognized gain from the sale of the Aircraft Lease Interest 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).

1.6 Relief Requested. To the extent required, Ameren requests that the Commission authorize AERG to issue the AERG Note to CIPSCO Leasing in consideration for the stock of CLC Aircraft./7/

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5 By order dated December 18, 2003 (Holding Co. Act Release 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.

6 It is contemplated that the retirement of the AERG Note will occur on or shortly after the Closing Date.

7 Although the issuance of the AERG Note by AERG and the acquisition of the stock of CLC Aircraft by AERG are not exempt under the Act, or otherwise approved under the terms of the December 2003 Order, such transactions are merely transitory steps in the sale of the CLC Aircraft membership interest or of the leased equipment and will have no permanent effect on the business or capital structure of AERG.

In addition, in accordance with Code section 1081(f), Ameren requests that

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the Commission's supplemental order in this proceeding confirm that (1) the proposed disposition of the Aircraft Lease Interest through the Proposed Transactions will be a disposition for cash or cash equivalents in compliance with the 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 through the Proposed Transactions will be an expenditure for property other than "nonexempt property" in compliance with the 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./8/

ITEM 2. FEES, COMMISSIONS AND EXPENSES.  
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The additional fees, commissions and expenses paid or incurred and to be paid or incurred in connection with the preparation and filing of this Post-Effective Amendment are estimated not to exceed \$5,000.

ITEM 3. APPLICABLE STATUTORY PROVISIONS.  
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Sections 6(a), 7, 9(a), 10, 11(b)(1) and 12(b) and (f) of the Act and Rule 45 thereunder are or may be applicable to AERG's issuance of the AERG Note and the acquisition thereof by CIPSCO Leasing and to the acquisition by AERG of the stock of CLC Aircraft. As previously noted, these interrelated transactions are merely transitory and will have no permanent impact on the business or capital structure of AERG and therefore should be disregarded. The sole purpose of these transactions is to match the unrecognized gain from the sale of the Aircraft Lease Interest to AERG, a subsidiary 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).

The Proposed Transactions are also subject to Rule 54. Rule 54 provides that, in determining whether to approve the issue or sale of any securities for purposes other than the acquisition of an "exempt wholesale generator" ("EWG") or "foreign utility company" ("FUCO") or other transactions unrelated to EWGs or FUCOs, the Commission shall not consider the effect of the capitalization or earnings of subsidiaries of a registered holding company that are EWGs or FUCOs if Rule 53(a), (b) and (c) are satisfied. Under Rule 53(a), the Commission shall not make certain specified findings under Sections 7 and 12 in connection with a proposal by a holding company to issue securities for the purpose of acquiring

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8 The Commission has issued orders making similar tax recitals in connection with other divestitures of non-utility properties in compliance with orders under Section 11(b)(1) of the Act. See, e.g., Progress Energy, Inc., et al., Holding Co. Act Release No. 27444 (Sept. 26, 2001); NiSource Inc., et al., Holding Co. Act Release No. 27525 (Apr. 29, 2002); and KeySpan Corporation, et al., Holding Co. Act Release No. 27541 (June 19, 2002).

the securities of or other interest in an EWG, or to guarantee the securities of an EWG, if each of the conditions in paragraphs (a)(1) through (a)(4) thereof are met, provided that none of the conditions specified in paragraphs (b)(1) through (b)(3) of Rule 53 exists. These standards are met.

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Rule 53(a)(1): Ameren's "aggregate investment" (as defined in Rule 53(a)(1)) in EWGs as of June 30, 2005 was \$492,760,725, or approximately 25.6% of Ameren's "consolidated retained earnings" (also as defined in Rule 53(a)(1)) for the four quarters ended June 30, 2005 (\$1,928,016,038). Ameren does not currently hold an interest in any FUCO.

Rule 53(a)(2): Ameren will maintain books and records enabling it to identify investments in and earnings from each EWG and FUCO in which it directly or indirectly acquires and holds an interest. Ameren will cause each domestic EWG in which it acquires and holds an interest, and each foreign EWG and FUCO that is a majority-owned subsidiary, to maintain its books and records and prepare its financial statements in conformity with U.S. generally accepted accounting principles. All of such books and records and financial statements will be made available to the Commission, in English, upon request.

Rule 53(a)(3): No more than 2% of the employees of Ameren's domestic utility subsidiaries will, at any one time, directly or indirectly, render services to EWGs and FUCOs.

Rule 53(a)(4): Ameren will submit a copy of each Application/Declaration relating to investments in EWGs and FUCOs and copies of any related Rule 24 certificates, as well as a copy of Ameren's Form U5S, to each of the public service commissions having jurisdiction over the retail rates of Ameren's domestic utility subsidiaries.

In addition, Ameren states that the provisions of Rule 53(a) are not made inapplicable to the authorization herein requested by reason of the occurrence or continuance of any of the circumstances specified in Rule 53(b). Rule 53(c) is inapplicable by its terms.

ITEM 4. REGULATORY APPROVAL.  
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The Proposed Transactions are not subject to the jurisdiction of any state commission or of any federal commission other than this Commission.

ITEM 5. PROCEDURE.  
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The applicants request that the Commission issue a notice of filing of this Post-Effective Amendment as soon as possible and that the Commission issue a supplemental order in this proceeding as soon as practicable after the end of the notice period. The applicants further request that there be no thirty-day waiting period between the issuance of the Commission's order and the date on which it is to become effective. The applicants hereby waive a recommended decision by a hearing officer or other responsible officer of the Commission and consent to the participation of the Division of Investment Management in the

preparation of the Commission's decision and/or order in the proceeding unless such Division opposes the matters covered hereby.

ITEM 6. EXHIBITS AND FINANCIAL STATEMENTS.  
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a. Exhibits.  
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B-7 - Form of AERG Note.

J-2 - Form of Federal Register Notice.

b. Financial Statements.

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FS-1 - Ameren Consolidated Balance Sheet as of December 31, 2004, and Consolidated Statement of Income and Consolidated Statement of Cash Flows for the year ended December 31, 2004 (incorporated by Reference to Ameren's Annual Report on Form 10-K for the year ended December 31, 2004) (File No. 1-14756).

FS-2 - Ameren Consolidated Balance Sheet as of June 30, 2005, and Consolidated Statement of Income and Consolidated Statement of Cash Flows for the six months ended June 30, 2005 (incorporated by Reference to Ameren's Quarterly Report on Form 10-Q for the period ended June 30, 2005) (File No. 1-14756).

ITEM 7. INFORMATION AS TO ENVIRONMENTAL EFFECTS.

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The Commission's action in this matter will not constitute a major federal action significantly affecting the quality of the human environment. No other federal agency has prepared or is preparing an environmental impact statement with regard to the Proposed Transactions.

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SIGNATURES

Pursuant to the requirements of the Public Utility Holding Company Act of 1935, as amended, the undersigned companies have duly caused this amended and restated Post-Effective Amendment to be signed on their behalves by the undersigned thereunto duly authorized.

AMEREN CORPORATION  
AMERENENERGY RESOURCES GENERATING  
COMPANY

By: /s/ Steven R. Sullivan  
-----  
Name: Steven R. Sullivan  
Title: Senior Vice President,  
General Counsel and Secretary

CIPSCO INVESTMENT COMPANY  
CIPSCO LEASING COMPANY

By: /s/ Steven R. Sullivan  
-----  
Name: Steven R. Sullivan  
Title: Secretary



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