

419

Exhibit No.:	45 (NP)
Issue:	Revenue Requirement
Witness:	Michael L. Brosch
Type of Exhibit:	Direct Testimony
Sponsoring Party:	Missouri Industrial Energy Consumers
Case No.:	ER-2011-0028
Date Testimony Prepared:	February 8, 2011

Filed
 May 19, 2011
 Data Center
 Missouri Public
 Service Commission

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

)
In the Matter of Union Electric)
Company, d/b/a Ameren Missouri's)
Tariff to Increase Its Annual)
Revenues for Electric Service)
 _____)

Case No. ER-2011-0028
Tariff No. YE-2011-0116

Direct Testimony and Schedules of

Michael L. Brosch

Revenue Requirement

On behalf of

Missouri Industrial Energy Consumers

NON-PROPRIETARY VERSION

February 8, 2011

Downey Exhibit No. 419
 Date 5/5/11 Reporter mla
 File No. ER-2011-0028

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

**In the Matter of Union Electric
Company, d/b/a Ameren Missouri's
Tariff to Increase its Annual
Revenues for Electric Service**

**Case No. ER-2011-0028
Tariff No. YE-2011-0116**

STATE OF MISSOURI

COUNTY OF JACKSON

)
)
) **SS**
)
)

Affidavit of Michael L. Brosch


Michael L. Brosch, being first duly sworn, on his oath states:

1. My name is Michael L. Brosch. I am President of Utilitech, Inc., having its principal place of business at PO Box 481934, Kansas City, Missouri 64148. We have been retained by the Missouri Industrial Energy Consumers in this proceeding on their behalf.
2. Attached hereto and made a part hereof for all purposes is my direct testimony and schedules which were prepared in written form for introduction into evidence in Missouri Public Service Commission Case No. ER-2011-0028.
3. I hereby swear and affirm that the testimony and schedules are true and correct and that they show the matters and things that they purport to show.

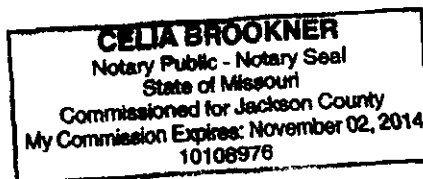


Michael L. Brosch

Subscribed and sworn to before me this 3 day of February 2011.



Notary Public



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

In the Matter of Union Electric Company, d/b/a Ameren Missouri's Tariff to Increase Its Annual Revenues for Electric Service))))))	Case No. ER-2011-0028 Tariff No. YE-2011-0116
---	----------------------------	--

**Table of Contents to the
Direct Testimony of Michael L. Brosch**

Education and Experience	2
Executive Summary	3
Income Tax Expense Adjustments	4
Accumulated Deferred Income Taxes.....	8
Net Operating Tax Losses	22
New Accounting Authority Orders.....	24
DSM Lost Revenues	35
Appendix A: Qualifications of Michael L. Brosch and Summary of Previously Filed Testimony	
Schedule MLB-1: Adjustment to Federal/State Income Tax Expense	
Schedule MLB-2: Adjustment to City Earnings Taxes	
Schedule MLB-3: Adjustment to Accumulated Deferred Income Tax Components	
Schedule MLB-4: Adjustment to ADIT for Uncertain Tax Positions	

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

**In the Matter of Union Electric
Company, d/b/a Ameren Missouri's
Tariff to Increase Its Annual
Revenues for Electric Service**

**Case No. ER-2011-0028
Tariff No. YE-2011-0116**

Direct Testimony of Michael L. Brosch

1 **Q PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 **A My name is Michael L. Brosch. My business address is PO Box 481934, Kansas**
3 **City, Missouri 64148.**

4 **Q WHAT IS YOUR PRESENT OCCUPATION?**

5 **A I am a Principal in the firm Utilitech, Inc., a consulting firm engaged primarily in utility**
6 **rate and regulation work. The firm's business and my responsibilities are related to**
7 **special services work for utility regulatory clients. These services include rate case**
8 **reviews, cost of service analyses, jurisdictional and class cost allocations, financial**
9 **studies, rate design analyses and focused investigations related to utility operations**
10 **and ratemaking issues.**

11 **Q ON WHOSE BEHALF ARE YOU APPEARING IN THIS PROCEEDING?**

12 **A I am appearing on behalf of the Missouri Industrial Energy Consumers ("MIEC").**
13 **Utilitech, Inc. was engaged by MIEC to review and address portions of the rate case**
14 **revenue requirement and other matters raised by Ameren Missouri. Utilitech's work,**
15 **as sponsored by Steven Carver and by me, complements that of other MIEC**

1 witnesses who will address other elements of the revenue requirement and rate
2 design, including Messrs. Greg Meyer, Maurice Brubaker, Michael Gorman and
3 James Dauphinais.

4 **Q WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

5 A My testimony explains certain income tax issues associated with the Ameren Missouri
6 revenue requirement and I sponsor several ratemaking adjustments to the
7 Company's test year rate base and income tax expenses that are necessary to
8 establish just and reasonable rates. The individual ratemaking adjustments I sponsor
9 have been incorporated into the Schedules that are attached to my testimony. In
10 addition, my testimony is responsive to several Ameren Missouri proposals for
11 non-traditional regulatory relief, including the Company's proposal for two new
12 Accounting Authority Orders ("AAOs") and for a new Fixed Cost Recovery
13 Mechanism ("FCRM").

14 **EDUCATION AND EXPERIENCE**

15 **Q WHAT IS YOUR EDUCATIONAL BACKGROUND?**

16 A Appendix A to this testimony is a summary of my education and professional
17 qualifications that also contains a listing of my previous testimonies in regulatory
18 proceedings in Missouri and other states.

19 **Q PLEASE SUMMARIZE YOUR PROFESSIONAL EXPERIENCE IN THE FIELD OF
20 UTILITY REGULATION.**

21 A My professional experience began in 1978, when I was employed by the Missouri
22 Public Service Commission as part of the accounting department audit staff. While

1 with the Staff from 1978 to 1981, I participated in rate cases involving Kansas City
2 Power and Light Company, Missouri Public Service Company, Southwestern Bell and
3 several smaller Missouri utilities. Since leaving the Commission Staff, I have worked
4 as an independent consultant and have testified before utility regulatory agencies in
5 Arizona, Arkansas, California, Florida, Hawaii, Illinois, Indiana, Iowa, Kansas,
6 Michigan, Missouri, New Mexico, Ohio, Oklahoma, Texas, Utah, Washington, and
7 Wisconsin in regulatory proceedings involving electric, gas, telephone, water, sewer,
8 transit, and steam utilities. I have participated in many electric, gas and telephone
9 utility regulatory proceedings, as listed and described in Appendix A.

10 **EXECUTIVE SUMMARY**

11 **Q . PLEASE SUMMARIZE YOUR DIRECT TESTIMONY.**

12 **A** My testimony describes several ratemaking adjustments that should be recognized in
13 determining the Company's income tax expenses for the test year. The appropriate
14 level of Accumulated Deferred Income Taxes ("ADIT") to be included in Ameren
15 Missouri's rate base is also addressed in my testimony. Additionally, I respond to the
16 Company's proposed non-traditional rate relief proposals that include expanded
17 AAOs and a demand-side management ("DSM") lost revenue recovery proposal,
18 indicating the reasons why these extraordinary forms of rate relief should not be
19 approved in this case.

20 The income tax expense adjustments I sponsor include recognition of certain
21 tax deductions that are improperly ignored in the Company's Federal and State
22 income tax expense calculations and exclusion of the City of St. Louis earnings taxes
23 that Ameren Missouri has not recently paid and is not expected to pay in the
24 foreseeable future.

1 The ADIT rate base adjustments I sponsor are to: (1) equitably include rate
2 base recognition of ADIT associated with Ameren Missouri's uncertain tax positions
3 ("UTPs"), with a proposal to make the Company whole if such deductions are later
4 disapproved, and (2) eliminate certain elements of ADIT that have been included in
5 rate base by Ameren Missouri, but should instead be treated as non-jurisdictional
6 because of the nature of the underlying transactions. A third ADIT adjustment is
7 needed to recognize the increased ADIT arising from tax law changes occurring in
8 late 2010 which extended and expanded bonus depreciation deductions in calculating
9 income taxes. This adjustment has not been quantified by Ameren Missouri and is
10 therefore not included in my Schedules. It is my understanding that the Company's
11 true-up filing will address the impact of bonus depreciation in updating ADIT balances
12 through February 28, 2011.

13 With respect to the new AAOs being proposed by Ameren Missouri witness
14 Mr. Weiss, I explain why the Commission should reject such proposals as
15 inappropriate and unnecessary piecemeal ratemaking. I also explain the reasons
16 why the FCRM proposal being advocated by Ameren Missouri witness Mr. Davis
17 should not be approved.

18 **INCOME TAX EXPENSE ADJUSTMENTS**

19 **Q PLEASE DESCRIBE THE ADJUSTMENT APPEARING AT SCHEDULE MLB-1.**

20 **A**Schedule MLB-1 sets forth proposed adjustments to Ameren Missouri's Federal and
21 State income tax expense to recognize two deductions that are actually taken by the
22 Company on its Form 1120 tax return, but that were inappropriately ignored in the
23 Company's rate case income tax calculation. Ameren Missouri deducts dividends
24 paid on its common stock that is held in Employee Stock Ownership Plan ("ESOP")

1 accounts, pursuant to Section 404(k) of the Internal Revenue Code ("IRC" or "Code").
2 Ameren Missouri also claims a special deduction on its Form 1120 for dividends paid
3 on certain preferred stock issuances pursuant to IRC Section 247, which allows a
4 partial federal income tax deduction for dividends paid on certain public utility
5 preferred stocks, generally known as "old money" preferred stocks. Both of these tax
6 deductions relate to programs and costs that are treated as jurisdictional for
7 ratemaking purposes, so the related income tax savings should be attributed to
8 ratepayers within the rate case income tax expense calculations.

9 **Q WHY SHOULD THE COST OF DIVIDENDS BE TREATED AS JURISDICTIONAL**
10 **WHEN THEY LEAD TO DEDUCTIONS ON AMEREN MISSOURI'S INCOME TAX**
11 **RETURNS?**

12 **A** There is no expense on the Company's books for dividends, because they are
13 declared and paid out of retained earnings. However, the income stream that
14 enables the payment of dividends is the equity portion of the overall rate of return that
15 is applied to rate base. Thus, this income stream and any income tax benefits arising
16 from it should be treated as jurisdictional in calculating the Company's ratemaking
17 income tax expenses.

18 **Q WHAT IS THE PURPOSE OF THE ADJUSTMENT SET FORTH AT SCHEDULE**
19 **MLB-2?**

20 **A** The adjustment on Schedule MLB-2 serves to eliminate the Company's asserted
21 income tax expenses for the City of St. Louis earnings tax. At Schedule GSW-E14,
22 Ameren Missouri witness Mr. Weiss calculates Federal, Missouri and St. Louis City
23 Earnings Tax expenses for the test year. These calculations include \$358,000 for
24 City Earnings Taxes based upon taxable income amounts derived within the

1 Company's filing. Recognizing this amount will change upon recalculation upon
2 true-up of the revenue requirement, I recommend that no City Earnings Tax be
3 included in the test year revenue requirement now or in the true-up.

4 **Q WHAT IS THE CITY EARNINGS TAX?**

5 A The City of St. Louis imposes an earnings tax of one percent upon individuals and
6 businesses based upon the amount of taxable income that is earned within the City.¹
7 Ameren Missouri files an annual tax return to report its Net Profit or Loss within the
8 City and to determine any amounts owed for City Earnings Tax.

9 **Q HAS THE COMPANY REPORTED POSITIVE TAXABLE INCOME, CAUSING IT TO**
10 **ACTUALLY PAY ANY ST. LOUIS CITY EARNINGS TAX?**

11 A No. The City Earnings Tax return most recently filed was for calendar 2009. In that
12 return, the Company reported negative Taxable Net Profit and had no City Earnings
13 Tax due.² The last time Ameren Missouri actually paid any City Earnings Tax was for
14 the tax year 2007.³

15 **Q IS IT LIKELY THAT THE COMPANY WILL EXPERIENCE TAXABLE NET PROFIT**
16 **FOR PURPOSES OF CITY EARNINGS TAX IN THE FORESEEABLE FUTURE?**

17 A No. The Company has claimed tax deductions on its City Earnings Tax return that
18 mirror amounts deducted on its Federal Income Tax return for certain *****

19 *****

¹ St. Louis Revised Code, Chapter 5.22; Section 5.22.020.

² Highly Confidential Attachment to MIEC 1.18S1; St. Louis Earnings Tax Return for 2009.

³ Ameren Missouri's response to MIEC 10.21.

1 ***** which contribute
2 to a reported Net Profit that is negative.⁴ Additionally, recent tax legislation has
3 extended certain "Bonus" tax depreciation deductions for tax years 2010, 2011 and
4 2012 which will likely cause Ameren Corporation's taxable income to remain negative
5 for the foreseeable future. Future negative taxable income can be expected to result
6 in no City Earnings Tax liability for Ameren Missouri.

7 **Q DOES THE COMPANY PROVIDE DEFERRED TAXES FOR THE BOOK/TAX**
8 **TIMING DIFFERENCES ASSOCIATED WITH CITY EARNINGS TAX?**

9 **A** No. ADITs are provided for book/tax timing differences associated with Federal and
10 State income taxes on the Company's books, but no ADIT entries are made for City
11 Earnings Tax timing differences. To my knowledge, there are no inter-period
12 normalization requirements associated with deductions claimed by the Company on
13 its City Earnings Tax returns.

14 **Q SHOULD THE CITY EARNINGS TAXES THAT ARE BEING AVOIDED BY**
15 **AMEREN MISSOURI BECAUSE OF BONUS DEPRECIATION AND OTHER TAX**
16 **ACCOUNTING CHANGES BE FLOWED THROUGH TO RATEPAYERS AT THIS**
17 **TIME?**

18 **A** Yes. In the absence of any tax regulations requiring normalization of book/tax timing
19 differences associated with City Earnings Tax, ratepayers must be afforded the
20 benefit of tax savings as they are realized to participate in the same savings being
21 experienced by the Company as a result of its tax deductions.

⁴ Id., Statement 1 and Statement 4.

1 Q SHOULD CITY EARNINGS TAX BE INCLUDED IN THE TRUE-UP
2 CALCULATIONS OF THE COMPANY'S REVENUE REQUIREMENT?

3 A No. There has been no showing that any City Earnings Tax will be payable by the
4 Company in the foreseeable future. Under these circumstances, it would be
5 unreasonable to include such taxes within the revenue requirement.

6 ACCUMULATED DEFERRED INCOME TAXES

7 Q WHAT ARE ADITs?

8 A ADITs are assets or liabilities that represent the cumulative amounts of additional
9 income taxes that are estimated to become receivable or payable in future periods,
10 because of differences between book accounting and income tax accounting
11 regarding the timing of revenue or expense recognition. Generally Accepted
12 Accounting Principles ("GAAP") define an accrual basis approach that must be used
13 to recognize revenues, expenses and income within the publicly issued financial
14 statements of public utilities such as Ameren Missouri. In contrast, the methods and
15 procedures specified to determine revenues and expenses (deductions) and taxable
16 income for income tax purposes are defined by the IRC. Differences in GAAP versus
17 Code accounting cause what are characterized as book/tax differences. Many of
18 these book/tax differences are temporary because they arise from timing differences,
19 where a specific cost is deductible for tax purposes in a different year than for book
20 purposes – the primary example being depreciation expenses that are recorded on a
21 straight-line basis for book accounting, but are based upon accelerated lives and
22 methods and/or "bonus" depreciation for income tax accounting and reporting
23 purposes. Timing differences can also occur where an anticipated expense is

1 recognized on an accrual-basis for book purposes, but is not deductible until later,
2 when the expense is actually paid in cash by the taxpayer.

3 Specific provisions within GAAP⁵ require recognition of income tax impacts
4 from these book/tax timing differences, by recording ADIT assets or liabilities. ADIT
5 assets generally occur when revenue taxation occurs prior to book recognition of the
6 revenues or when the tax deductibility for expenses is subsequent to the book
7 recognition of the expense. ADIT liabilities, on the other hand, represent delayed
8 taxation of revenues or advance deduction of expenses, in relation to the timing of the
9 same transactions on the books. ADIT balances exist to recognize that certain tax
10 expenses are determinable today, but actually become payable in the future
11 whenever book/tax timing differences ultimately reverse.

12 **Q WHY IS ACCOUNTING FOR ADIT REQUIRED UNDER GAAP?**

13 **A** Full and complete accounting for income tax expenses must recognize that filing tax
14 returns and paying income taxes will impact expenses payable in more than one
15 accounting period. The relevant GAAP requirements are stated within Accounting
16 Standards Codification 740 ("ASC 740"). Under ASC 740, there are two primary
17 objectives related to accounting for income taxes:

- 18 a. To recognize the amount of taxes payable or refundable for the current
19 year, and
- 20 b. To recognize deferred tax liabilities and assets for the future tax
21 consequences of events that have been recognized in an entity's financial
22 statements or tax returns.

⁵ GAAP Accounting for Income Taxes is set forth within Financial Accounting Standards Board Accounting Standards Codification 740 ("ASC 740").

1 Recorded ADIT amounts arise from part (b) of this standard, where recognition is
2 given on the books to the future tax consequences of transactions that are treated
3 differently in financial statements than on tax returns.

4 **Q WHY DO WE CARE ABOUT ADIT BALANCES IN DETERMINING UTILITY**
5 **REVENUE REQUIREMENTS?**

6 A Utilities are capital intensive businesses that invest continuously in newly constructed
7 or acquired assets. These large annual capital investments generate persistently
8 large income tax deductions for bonus/accelerated depreciation and other tax
9 deductions and credits that must be normalized by recording ADIT. From a
10 ratemaking perspective, a utility's persistently large credit ADIT balances represent a
11 source of capital to the utility. ADIT balances represent a form of zero-cost capital to
12 the utility created by the income tax savings permitted under tax laws and regulations
13 that are not immediately "flowed through" to ratepayers and would benefit only
14 shareholders unless properly recognized as a rate base reduction. ADIT balances
15 are normally included in rate base reduction by regulators, so as to properly quantify
16 the net amount of investor-supplied capital to support rate base assets.

17 **Q HAS AMEREN MISSOURI INCLUDED ANY ADIT BALANCES IN THE**
18 **DETERMINATION OF ITS RATE BASE?**

19 A Yes. At Schedule GSW-E8, Mr. Weiss has included Electric ADIT balances that were
20 recorded at March 31, 2010, with adjustments to reflect estimated changes in these
21 amounts that are expected to occur through February 28, 2011, which is the true-up
22 date.

1 Q DID THE COMPANY INCLUDE ALL OF THE ELEMENTS OF ITS ADIT BALANCES
2 THAT ARE RECORDED ON ITS BOOKS WITHIN THE SCHEDULE GSW-E8
3 AMOUNTS THAT ARE PROPOSED TO BE INCLUDED IN RATE BASE?

4 A No. The Company evaluated the dozens of individual elements of book/tax timing
5 differences within a workpaper designated GSW-WP-E154 and excluded certain
6 elements of its recorded ADIT balances for rate base inclusion.⁶ Generally, the
7 excluded items are related to transactions or specific investments that are treated as
8 non-jurisdictional or that are excluded from rate base. Additionally, the Company has
9 excluded valuation adjustments for certain of its recorded ADITs that are related to
10 tax deductions claimed by Ameren Missouri on its consolidated income tax return that
11 have been determined by the Company to be UTPs.

12 Q HAVE YOU REVIEWED THE COMPANY'S ADIT DETAILED ACCOUNTS TO
13 EVALUATE WHETHER THE PROPER ELEMENTS HAVE BEEN RECOGNIZED IN
14 RATE BASE?

15 A Yes. I reviewed the Company's response to Data Request MIEC 1.37 which
16 contained an attachment detailing the many individual elements of Ameren Missouri's
17 recorded March 31, 2010 ADIT balances, as well as projected amounts for each
18 element of ADIT as of February 28, 2011. In addition, I discussed this information
19 with Company tax department personnel and submitted follow-up data requests to
20 clarify certain changes to the Company's pre-filed position that were expected to be
21 made.

⁶ These items are designated with Footnote 1 "excluded from Rate Base Calculations" in GSW-WP-E154.

1 In its response to Data Request MIEC 10.20, the Company indicated that it
2 intends to change its position regarding rate base inclusion for deferred taxes related
3 to the following items:

- 4 • Employee bonus accruals and payments;
- 5 • Pension/OPEB tracker;
- 6 • Tax reserve interest; and
- 7 • IL enterprise zone tax credits.

8 Additionally, the Company's response to this MIEC data request confirmed
9 that the true-up ADIT calculations submitted by the Company will recognize in ADIT,
10 as of 2/28/2011, the deferred income tax liabilities arising from generation repairs,
11 T&D repairs, casualty losses, Section 174 R&E and mixed service cost positions
12 taken by Ameren Missouri, but not the tax reserve liabilities associated with UTPs.⁷

13 **Q WHAT ELEMENTS OF THE COMPANY'S RECORDED ADIT BALANCES THAT**
14 **ARE PROPOSED FOR RATE BASE INCLUSION ARE INAPPROPRIATE AND**
15 **REQUIRE FURTHER ADJUSTMENT?**

16 **A** I have a two-part answer to this question. First, after reflecting the revisions Ameren
17 Missouri intends to make that are acceptable to MIEC, as described in the previous
18 response, I still dispute the Company's proposed rate base treatment of one
19 additional ADIT element, the vacation pay accrual. The Company must accrue its
20 liability for earned but unpaid vacations for its employees, but the related tax
21 deduction is delayed until vacations are taken and paid for in cash, resulting in debit
22 ADIT amounts that increase the Company's asserted rate base. Because the

⁷ Ameren Missouri's response to MIEC 10.20, part (c).

1 accrued vacation pay liability is not recognized as a reduction to rate base,⁸ the debit
2 ADIT balance for this timing difference should also be excluded from rate base.

3 Second, I propose a much larger adjustment to reverse all of the Company's
4 valuation adjustments that reduce its ADIT balances for its UTPs for which cash flow
5 benefits have been achieved by Ameren Missouri. This second adjustment is
6 proposed because it would be irreversibly harmful to ratepayers to completely ignore
7 the cash flow benefits arising from the Company's partial exclusion of deferred taxes
8 associated with UTPs, as proposed by Ameren Missouri. I recommend that all ADITs
9 that have benefited Ameren Missouri be included in rate base, even though some tax
10 positions taken by the Company may be uncertain, with an equitable form of relief
11 available to the Company if and when any disallowance of these positions results in
12 additional tax or interest to the Company, as more fully described in the following
13 testimony.

14 **Q HAVE YOU PREPARED AN ADJUSTMENT SETTING FORTH SPECIFIC ADIT**
15 **ELEMENTS THAT SHOULD BE TREATED DIFFERENTLY THAN AS PROPOSED**
16 **BY AMEREN MISSOURI?**

17 **A** Yes. The first ADIT adjustment I propose is set forth at Schedule MLB-3, and is to
18 restate ADIT amounts for specific timing differences where changes have been
19 conceded by Ameren Missouri and for the additional Accrued Vacation Pay item
20 described above. The amounts shown for each item are based upon Ameren

⁸ Schedule GSW-E15 summarizes Total Electric Net Original Cost Rate Base asserted by the Company and does not include Accrued Vacation Pay as a reduction to Rate Base. Similarly, the lead-lag study workpapers of Ameren Missouri witness Mr. Adams includes a zero amount for Vacation Payroll which eliminates any accounting for delayed payment of accrued vacations within Cash Working Capital.

1 Missouri's estimates as of February 2011 and the amounts for each item may change
2 when the true-up calculations are submitted.

3 **Q WHAT IS THE PURPOSE OF THE ADJUSTMENT SET FORTH AT SCHEDULE**
4 **MLB-4?**

5 A Schedule MLB-4 is the additional adjustment to ADIT estimated balances projected to
6 exist at February 28, 2011, to reverse Ameren Missouri's adjustments reducing ADITs
7 for certain UTPs, where the Company has already taken the deduction and realized
8 cash flow benefits from the tax savings.

9 **Q PLEASE EXPLAIN THE ADIT ISSUE SURROUNDING THE UTP AMOUNTS.**

10 A As described above, ADITs are provided for all book/tax timing differences to
11 recognize the additional taxes to be paid in another period of time upon reversal of
12 the temporary difference in timing between book versus tax recognition of certain
13 revenues and expenses. When the specific deduction creating such a book/tax
14 timing difference is associated with a tax position that is believed to be more likely
15 than not to be upheld on audit, but that is still somewhat uncertain, GAAP requires a
16 valuation adjustment to reclassify a portion of the ADIT amount as an UTP. Financial
17 Accounting Interpretation No. 48 ("FIN 48") states in pertinent part:

18 6. An enterprise shall initially recognize the financial statement effects
19 of a tax position when it is more likely than not, based on the
20 technical merits, that the position will be sustained upon
21 examination. As used in this Interpretation, the term *more likely*
22 *than not* means a likelihood of more than 50 percent; the terms
23 *examined* and *upon examination* also include resolution of the
24 related appeals or litigation processes, if any. The more-likely
25 than-not recognition threshold is a positive assertion that an
26 enterprise believes it is entitled to the economic benefits
27 associated with a tax position. The determination of whether or not
28 a tax position has met the more-likely-than-not recognition
29 threshold shall consider the facts, circumstances, and information
30 available at the reporting date.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

7. In assessing the more-likely-than-not criterion as required by paragraph 6 of this Interpretation:
- a. It shall be presumed that the tax position will be examined by the relevant taxing authority that has full knowledge of all relevant information.
 - b. Technical merits of a tax position derive from sources of authorities in the tax law (legislation and statutes, legislative intent, regulations, rulings, and case law) and their applicability to the facts and circumstances of the tax position. When the past administrative practices and precedents of the taxing authority in its dealings with the enterprise or similar enterprises are widely understood, those practices and precedents shall be taken into account.
 - c. Each tax position must be evaluated without consideration of the possibility of offset or aggregation with other positions.

Measurement

8. A tax position that meets the more-likely-than-not recognition threshold shall initially and subsequently be measured as the largest amount of tax benefit that is greater than 50 percent likely of being realized upon ultimate settlement with a taxing authority that has full knowledge of all relevant information. Measurement of a tax position that meets the more-likely-than-not recognition threshold shall consider the amounts and probabilities of the outcomes that could be realized upon ultimate settlement using the facts, circumstances, and information available at the reporting date. [Footnote omitted]

Several of Ameren Missouri's tax deductions involve significant amounts of tax savings that have been treated as UTPs on the books, resulting in reductions in ADITs otherwise includable in rate base.

Q BY HOW MUCH IS AMEREN MISSOURI'S ASSERTED RATE BASE INCREASED BY THE COMPANY'S EXCLUSION OF CERTAIN ADIT BALANCES THAT REPRESENT UTPs?

A A total amount of approximately ***** has been removed from test year projected ADIT balances that would otherwise be used to reduce rate base. This amount is the sum of the estimated balances of individual ADIT elements that are

1 expected to be recorded at 2/28/2011 and that are excluded by Ameren Missouri
2 because they represent UTPs, as set forth in the Confidential Attachment to Data
3 Request MIEC 1.37S1. I understand that these amounts represent estimates of ADIT
4 at February 28, 2011 that will change when the Company submits its proposed rate
5 base update calculations. The adjustment proposed by MIEC at Schedule MLB-4
6 replaces all of the Confidential UTP amount stated above, but does not include ADIT
7 for the UTPs related to transmission and distribution repairs and mixed service costs,
8 because the Company has not yet received income tax deferral cash flow benefits
9 from these UTP elements.⁹

10 **Q HAS THE COMMISSION ALREADY CONSIDERED AND ADDRESSED THE RATE**
11 **BASE TREATMENT OF ADIT BALANCES THAT HAVE BEEN REDUCED FOR**
12 **UTPs?**

13 **A** Yes. In its Report and Order in Case No. ER-2008-0318, the Company advocated
14 exclusion of its ADITs that represented UTPs and the Commission approved such
15 exclusions. In its Report and Order, the Commission stated:

16 Both ratepayers and shareholders benefit when AmerenUE
17 takes an uncertain tax position with the IRS, because saving money on
18 taxes benefits the company's bottom line and reduces the amount of
19 expense the ratepayers must pay. At the hearing, Staff's witness
20 agreed AmerenUE should pursue such positions. [footnote omitted]
21 The best way to encourage AmerenUE to continue to take uncertain
22 tax positions is to treat the company fairly in the regulatory process.

23 AmerenUE should not be required to recognize as deferred
24 taxes the amount of its uncertain tax positions it ultimately expects to
25 pay with interest to the IRS. The best means of determining that
26 amount is by recognizing the allocation of those costs AmerenUE
27 already makes under FIN 48. Therefore, the Commission will exclude

⁹ Ameren Missouri's response to MIEC Data Request 13.5. This response also indicates that 2006-2008 casualty loss deductions that are UTPs were taken as deductions on tax refund claims that have not been paid by the IRS, but rather have been disallowed in full by the IRS. These amounts are not quantified in the Company's response or segregated in the response to MIEC 1.37S1 and are therefore not included within MIEC's adjustment at this time.

1
2

from the deferred taxes account the amount of AmerenUE's FIN 48 liability.¹⁰

3 **Q ARE YOU PROPOSING THAT THE COMMISSION RECONSIDER ITS EXCLUSION**
4 **OF THE FIN 48 VALUATION REDUCTIONS TO THE COMPANY'S ADIT**
5 **BALANCE?**

6 A Yes. While I agree with the Commission's conclusion that "the best way to encourage
7 AmerenUE to continue to take UTPs is to treat the company fairly in the regulatory
8 process," the complete exclusion of FIN 48 reserved amounts of ADIT that was
9 approved by the Commission in this prior case is unfair to ratepayers because it
10 presumes Ameren Missouri will not prevail on its UTPs. The Commission's approach
11 benefits only shareholders by allowing the Company to retain the cash flow ADIT
12 benefits of its UTP deductions purely as a result of uncertainty. This approach
13 reduces ADIT balances as if it is certain that such deductions will eventually be
14 disallowed on future tax audit. If the Company ultimately prevails on its UTP claims,
15 there is no opportunity under the Case No. ER-2008-0318 approach to retroactively
16 reach back into past rate orders and reduce the previously-approved rate levels to
17 provide the ADIT benefits to ratepayers that were previously denied.

18 **Q HOW COULD THE COMMISSION ACHIEVE THE DESIRED FAIRNESS FOR BOTH**
19 **RATEPAYERS AND THE COMPANY'S SHAREHOLDERS, GIVEN THE**
20 **UNCERTAINTIES ASSOCIATED WITH UTP TAX MATTERS?**

21 A A more balanced treatment would recognize that the Company has asserted a right to
22 its UTP deductions, has paid less tax as a result of such claims, and has some risk of
23 higher future taxes and interest liabilities if audit disallowances occur in the future.

¹⁰ Case No. ER-2008-0318; Report and Order, dated January 27, 2009, pages 55-56.

1 Instead of presuming that some of the ADIT balances will be disallowed, as was done
2 in the prior case, I recommend rate base inclusion of all of the ADIT amounts
3 associated with the Company's filed tax return deductions, then making provision for
4 Ameren Missouri to seek relief when and if there is ultimately a tax deficiency that
5 must be paid by Ameren Missouri as a result of audit disallowance.

6 **Q HOW COULD THE COMPANY SEEK RELIEF IN THE FUTURE IF ADIT AMOUNTS**
7 **NOW RECOGNIZED FOR RATEMAKING PURPOSES ARE LATER REVERSED**
8 **BECAUSE UTPs COULD NOT BE DEFENDED?**

9 **A**Under the approach I recommend, ADIT amounts included in rate base would be
10 based upon the Company's filed tax return positions. To ensure this approach is fair
11 to the Company, Ameren Missouri would be granted the right to recognize a
12 regulatory asset for carrying charges on the amounts of any UTP-reserved amounts
13 of ADIT that were included in a rate base now, but later disallowed upon tax audit and
14 resolution of any appeals. The carrying charges should be based upon the lesser of
15 the overall rate of return applied to the rate base amounts of subsequently reversed
16 ADIT amounts or the interest assessed by the IRS in connection with any subsequent
17 disallowance of the underlying UTP.

18 **Q HAS THE FEDERAL ENERGY REGULATORY COMMISSION ("FERC")**
19 **DETERMINED THAT ADIT SHOULD BE RECOGNIZED BASED ON FILED TAX**
20 **RETURN AMOUNTS, WITH NO REDUCTION FOR UTP AMOUNTS?**

21 **A**Yes. FERC instructed utilities to continue to recognize deferred income taxes for
22 Commission accounting and reporting purposes based on the difference between
23 positions taken in tax returns filed or expected to be filed and amounts reported in the
24 financial statements. According to FERC, "Where uncertainties exist with respect to

1 tax positions involving temporary differences, the amounts recorded in the accounts
2 established for accumulated deferred income taxes are based on the positions taken
3 in the tax returns filed or expected to be filed. Recognition of a separate liability for
4 any uncertainty related to temporary differences is therefore not necessary because
5 the entity has already recorded a deferred tax liability for the item or would be entitled
6 to record a deferred tax asset for the item if a separate liability for the uncertainty was
7 recognized." As the FERC correctly notes in this guidance, "This practice results in
8 the accumulated deferred income tax accounts reflecting an accurate measurement
9 of the cash available to the entity as a result of temporary differences. This is an
10 important measurement objective of the Commission's Uniform Systems of Account
11 because accumulated deferred income tax balances, which are significant in amount
12 for most Commission jurisdictional entities, reduce the base on which cost-based,
13 rate-regulated entities are permitted to earn a return."¹¹

14 **Q ARE YOU AWARE OF ANY STATE REGULATORS THAT HAVE DETERMINED**
15 **HOW TO TREAT UTP AMOUNTS IN DETERMINING RATE BASE?**

16 **A** I have not researched the topic extensively, but from my work in Texas I became
17 aware of an Oncor Electric Delivery Company rate case Order on Rehearing issued
18 by the Public Utility Commission of Texas in November of 2009 containing the
19 following Rate Base Findings of Fact:

20 56. During the test year, Oncor conducted a FIN 48 analysis and
21 determined that \$96,972,460 did not meet the FIN 48 standard.
22 Oncor reclassified the tax benefit from an ADFIT to a non-current
23 reserve that accrues the IRS prescribed interest.

¹¹ FERC Docket No. AI07-2-000, May 25, 2007. Available at: <http://www.ferc.gov/legal/acct-matts/acct-guide.asp>

1 57. The Commission requires a utility to use the Federal Energy
2 Regulatory Commission (FERC) chart of accounts in preparing
3 its rate filing package.

4 58. Recognizing the competing needs between financial reporting
5 unrelated to ratemaking, and reporting for ratemaking, FERC
6 issued a policy statement in May 2007 stating that utilities are not
7 to follow FIN 48 for financial accounting and reporting submitted
8 to FERC.

9 59. The IRS may not audit or reverse Oncor's position as to the tax
10 deductions identified as FIN 48 deductions and moved into the
11 FIN 48 reserve.

12 60. Oncor may not have to pay the IRS the FIN 48 deductions of
13 \$96,972,460; and therefore, they should be added back into the
14 ADFIT for ratemaking purposes.¹²

15 As a result of these findings, it was recognized by the Commission that Oncor has not
16 paid and "may not have to pay" the IRS for taxes associated with UTP issues for
17 which FIN 48 adjustments were made.

18 **Q WHAT ARE THE ADVANTAGES OF THE APPROACH YOU RECOMMEND,**
19 **RATHER THAN REMOVING ADIT AMOUNTS RELATED TO UTP AMOUNTS, AS**
20 **APPROVED BY THE MISSOURI COMMISSION IN CASE NO. ER-2008-0318?**

21 **A** The primary advantage of my recommendation is avoiding overstatement of rate base
22 and revenue requirements today. If we assume the best case, under which Ameren
23 is ultimately able to fully defend its UTP claims, ratepayers get full benefit of the same
24 cash flow benefits that the Company is receiving by claiming the UTP deductions on
25 its tax returns. This is preferable to the Case No. ER-2008-0318 approach, under
26 which the Commission presumptively eliminates the ADIT amounts that are available
27 to Ameren Missouri as a result of its UTP deductions. Under the Case
28 No. ER-2008-0318 approach, there is no available remedy to retroactively credit

¹² PUCT Docket No. 35717, Order on Rehearing, 11/30/2009, page 18.

1 ratepayers for the denied tax benefits if Ameren Missouri's FIN 48 tax positions are
2 ultimately upheld.

3 Another benefit of the recommended alternative approach is the avoidance of
4 the speculation and valuation judgments employed under FIN 48 regarding the
5 expected outcome of future tax audits and appeals. Under the Case
6 No. ER-2008-0318 approach, the rate base ADIT balances are reduced based upon
7 FIN 48 handicapping of such outcomes, resulting in ADIT rate base allowances that
8 are not known and measurable, but are instead based upon speculative estimates of
9 future tax audit outcomes. In contrast, the amount of recorded ADITs arising from the
10 Company's as-filed tax positions are known and measurable and do not require such
11 speculation. Similarly, under the alternative approach I recommend, if future IRS
12 examination results in a final determination of additional tax and interest, that final
13 liability would be known with specificity and could be presented by Ameren Missouri
14 for consideration and recovery on an equitable basis, using actual facts and amounts.

15 **Q HAS THE COMPANY PROVIDED ANY INFORMATION TO SUPPORT ITS**
16 **JUDGMENT-BASED REDUCTIONS TO RECORDED ADIT AMOUNTS BASED**
17 **UPON FIN 48, SO THAT YOU COULD UNDERSTAND THE ASSUMPTIONS**
18 **EMPLOYED BY AMEREN MISSOURI TO MEASURE THE EXPECTED RESULTS**
19 **OF ITS UTPs?**

20 **A** No. When this information was requested in Data Request MIEC 10.20 (d) and (e),
21 the Company objected to providing copies of the analyses, reports, workpapers and
22 other documents relied upon by the Company to determine its FIN 48 reductions to
23 ADIT, claiming "The Company objects to subparts d and e of this data request to the
24 extent it seeks information protected from disclosure by the attorney-client and work

1 product privileges."¹³ With this objection, the Company's proposed ADIT balance
2 reductions for FIN 48 valuation adjustments, that significantly increase rate base, are
3 not auditable and cannot be verified by the Commission Staff or intervenors.

4 **Q WOULD COMMISSION APPROVAL OF YOUR PROPOSED ALTERNATIVE**
5 **TREATMENT OF THIS ISSUE AVOID THE PROBLEMS WITH SUBJECTIVE AND**
6 **SPECULATIVE FIN 48 VALUATION ADJUSTMENTS THAT ARE NOT**
7 **AUDITABLE?**

8 **A** Yes.

9 **NET OPERATING TAX LOSSES**

10 **Q HAS AMEREN MISSOURI CHANGED THE ADIT AMOUNTS IN ITS FILED CASE**
11 **TO RECOGNIZE NET OPERATING LOSSES UPON FILING OF THE ACTUAL**
12 **AMEREN CONSOLIDATED TAX RETURNS FOR TAX YEAR 2009?**

13 **A** No. The Company's direct testimony and exhibits set forth income tax and ADIT
14 balances on an Ameren Missouri stand-alone basis, without regard to whether the
15 consolidated Ameren Corporation and subsidiaries actually report positive taxable
16 income or taxable losses.

¹³ Letter dated January 10, 2011 from James B. Lowery to Diana Vuylsteke, counsel to Ameren Missouri and MIEC, respectively.

1 **Q DO ANY AMEREN MISSOURI RESPONSES TO DATA REQUESTS INDICATE**
2 **THAT THE COMPANY HAS ACTUALLY EXPERIENCED TAXABLE LOSSES**
3 **THAT ARE SUBJECT TO IRS NET OPERATING LOSS ("NOL") CARRY**
4 **FORWARD OR CARRY BACK RULES?**

5 **A** Yes. In its response to Data Request MIEC 10.22, the Company provided a
6 confidential attachment showing its historical 2005 to 2009 and estimated 2010
7 taxable income/loss position by year. The combined impact of tax accounting method
8 changes on the Company's tax returns along with legislation in late 2010 that
9 provided for 50% bonus depreciation for 2010 and 100% bonus depreciation
10 (expensing of plant) for 2011 has caused Ameren Corporation to expect to have a
11 NOL for 2010, but, "...because Ameren had net operating losses for both 2008 and
12 2009, the loss cannot be carried back. Therefore, the losses will be carried forward
13 and the cash benefit will be realized in 2011 and 2010."¹⁴

14 **Q WHAT IS THE SIGNIFICANCE OF A NOL THAT IS CARRIED FORWARD?**

15 **A** For most NOL situations, corporate taxpayers are allowed to carry back the NOL for
16 two prior tax years to collect refunds of previously paid taxes, or to carry forward NOL
17 amounts for up to 20 years. When tax losses cannot be monetized through carry
18 back filings, the taxpayer must wait until the carried forward losses can be used to
19 reduce future years' tax liabilities.

¹⁴ Ameren Missouri's response to MIEC 11.7.

1 Q IS IT POSSIBLE TO REVIEW OR RESPOND TO THE COMPANY'S NOL
2 SITUATION AT THIS TIME?

3 A No. As I mentioned previously, the Company's direct filing did not reflect any
4 assumed NOL effects. In the event the Company's true-up filing to reflect
5 February 28, 2011 updated ADITs or income tax expense incorporates any NOL
6 impact, I wish to reserve the right to present supplemental testimony addressing the
7 Company's position on income tax expenses as well as ADIT revisions at an
8 appropriate time. Additional testimony may be needed because the amounts of any
9 NOL are influenced by the level of tax deductions actually reflected on the Company's
10 filed tax returns, the amounts of deductions estimated to be deductible in 2010 and
11 2011 tax returns yet to be filed, as well as amounts deducted for which the Company
12 may reflect FIN 48 reclassifications to be reconciled for ratemaking purposes.

13 **NEW ACCOUNTING AUTHORITY ORDERS**

14 Q HAS AMEREN MISSOURI PROPOSED ANY NEW AAOs IN THIS PROCEEDING?

15 A Yes. Company witness Mr. Weiss proposes three new forms of departure from
16 traditional regulation of costs. These include:

- 17 • Accounting authority to continue to defer Allowance for Funds Used During
18 Construction ("AFUDC") and defer depreciation expenses on government
19 relocation capital projects that are completed after the test year true-up in this
20 case, until such new plant-in-service assets can be placed into rate base in the
21 Company's next rate case, and
- 22 • Accounting authority to continue to defer AFUDC and defer depreciation on all
23 other projects (other than new business) placed into service after February 28,
24 2011 (the true-up cutoff date) and July 31, 2011 (prior to the operation of law
25 date), and
- 26 • Accounting authority to defer the cost of the solar rebates, the cost to purchase
27 renewable energy or renewable energy credits and unspecified other related
28 costs incurred after February 28, 2011 (the true-up period in this case) until the
29 effective date of new rates in the Company's next rate case.

1 These proposals appear to be linked to Mr. Weiss' testimony regarding historical
2 returns on equity that have been earned by Ameren Missouri and that are generally
3 lower than historically authorized levels.

4 **Q SHOULD THE COMPANY'S PROPOSALS FOR NEW AAO REGULATORY**
5 **RELIEF BE GRANTED AT THIS TIME?**

6 **A No.** The Company's AAO proposals individually and collectively represent improper
7 single-issue ratemaking that should not be approved by the Commission in the
8 absence of compelling justification for such non-traditional regulation. Utility rates
9 should be revised based upon an overall assessment of changes in the overall costs
10 incurred to provide service, capturing all changes in revenues, expenses, rate base
11 and cost of capital at a common and "matched" point in time – the test year. The
12 granting of AAO treatment for selected elements of this otherwise "matched" updating
13 of prices and costs is an extraordinary form of regulatory relief. Ameren Missouri has
14 not proven any need for the additional future revenues or provided any other
15 economic justification for new AAO regulatory relief that it proposes.

16 **Q WOULD COMMISSION APPROVAL OF NEW AAO PROVISIONS FOR AMEREN**
17 **MISSOURI REPRESENT A SIGNIFICANT DEPARTURE FROM TRADITIONAL,**
18 **TEST YEAR REGULATION?**

19 **A Yes.** Energy utilities have traditionally been regulated based upon their cost to
20 provide service, including an opportunity to earn a reasonable return on invested
21 capital. The process used to evaluate and measure the cost of service and resulting
22 revenue requirement is the rate case, in which a balanced review of jurisdictional
23 expenses, rate base investment, the cost of capital and revenues at present rates can
24 be undertaken at a common point in time that is referred to as a "test period." In

1 Missouri, the test period is based upon an actual 12-month historical period of time,
2 with liberal true-up adjustments for known and measurable changes, in which
3 revenues at present rate levels are compared to operating expenses and the required
4 return on rate base, to determine whether an overall increase or reduction in revenue
5 levels is needed.

6 **Q DOES A TEST YEAR IMPOSE IMPORTANT LIMITS UPON THE TIME PERIOD**
7 **FOR MEASUREMENT OF REVENUES, EXPENSES AND RATE BASE**
8 **INVESTMENTS?**

9 **A** Yes. A concept referred to as test period "matching" is important to the establishment
10 of just and reasonable rates. It is essential that there be a synchronized or "matched"
11 review of both revenue levels and cost levels within a carefully structured test period,
12 because both revenues and costs tend to change over time as customers are added
13 and lost, inflation and productivity changes impact costs, capital market conditions
14 change and sales volumes fluctuate.

15 **Q ISN'T IT NECESSARY FOR THE REGULATOR TO BE FORWARD LOOKING AND**
16 **ALLOW KNOWN COST INCREASES OR ANTICIPATED NEW INVESTMENTS TO**
17 **BE GRANTED SPECIAL RECOGNITION THROUGH AN AAO OR A RATE**
18 **ADJUSTMENT CLAUSE IN ORDER FOR THE UTILITY TO HAVE ANY**
19 **OPPORTUNITY TO RECOVER SUCH COSTS?**

20 **A** No. Utilities continuously recover their existing investment in Plant in Service through
21 depreciation accruals, resulting in growing Accumulated Depreciation balances. As
22 noted in my prior testimony, utility ADIT balances are also growing rapidly due to
23 bonus depreciation tax regulations. The dynamic nature of utility costs and revenues
24 does not necessarily imply frequent rate cases. As long as revenues and costs

1 remain in approximate balance, causing the utility's earnings to stay within acceptable
2 proximity to authorized return levels, an electric or gas utility may be able to go many
3 years between rate cases.

4 **Q DOES COST-PLUS, TEST-YEAR REGULATION CAUSE THE PUBLIC UTILITY TO**
5 **BE INDIFFERENT ABOUT ITS COST LEVELS?**

6 A No. An important element of traditional test period regulation is the incentive created
7 for management to control and reduce costs, so as to maximize the opportunity to
8 actually earn at or above the authorized return level between rate case test periods.
9 Traditional test year regulation is not continuous regulation, because prices
10 established in a rate case are normally fixed for a period of years, causing any
11 changes in actual costs or sales levels to be borne by utility shareholders or
12 ratepayers before such changes can be translated into revised prices after a "next"
13 rate case. This passage of time between rate cases, commonly referred to as
14 "regulatory lag," serves to replace some of the efficiency incentive that is lost when
15 prices are based upon costs to serve.

16 Another beneficial characteristic of traditional test year regulation is the
17 intensive focus upon utility operations and costs within a formal proceeding in which
18 Commission Staff and other interested parties can carefully examine or audit the
19 components making up the revenue requirement. The potential for regulatory
20 disallowance of excessive or imprudently incurred costs in such formal proceedings
21 represents another form of efficiency incentive to management.

22 In contrast, AAO provisions enable selected elements of the utility revenue
23 requirement to be isolated for special treatment and piecemeal revenue increases at
24 a later time. These provisions are destructive to test year matching and distortive of

1 the revenue requirement, while also reducing the regulatory lag incentives for
2 management efficiency.

3 **Q HAS THE COMMISSION PREVIOUSLY ALLOWED AAO ACCOUNTING FOR**
4 **MAJOR PLANT ADDITIONS TO COORDINATE PROJECT COMPLETION WITH**
5 **RATE RECOVERY?**

6 A Yes. It is my understanding that in certain instances major capital projects like the
7 Company's Sioux scrubber investment have historically been allowed AAO treatment
8 by the Commission. This has been done in extraordinary circumstances, where the
9 completion of a major capital project, and the coincident cessation of AFUDC and
10 commencement of depreciation accruals, would have significantly damaged the
11 Company's financial performance in the absence of special regulatory treatment. The
12 Company's new AAO proposals do not relate to a discrete major capital project that
13 would individually drive the filing of a future rate case, where such accounting
14 changes need to be coordinated. Instead, the Company's new AAO proposals
15 represent a "blanket" proposal covering numerous smaller projects and costs without
16 any of these extraordinary characteristics.

17 **Q WOULD COMPLETION OF THE SIOUX SCRUBBERS, WITHOUT**
18 **SIMULTANEOUS IMPLEMENTATION OF NEW BASE RATES FROM THE**
19 **PENDING RATE CASE, IMMEDIATELY AND SIGNIFICANTLY IMPACT AMEREN**
20 **MISSOURI'S REPORTED EARNINGS?**

21 A Yes. Using information from Mr. Baxter's Direct Testimony, the total capital
22 investment in the Sioux scrubbers is expected to be \$594 million¹⁵ and this single

¹⁵ Direct Testimony of Ameren Missouri witness Mark Birk, page 19, line 3.

1 project explains about \$110 million of the requested revenue increase in this
2 proceeding.¹⁶ In contrast, the Company's new AAO proposals for relocation plant
3 projects and miscellaneous projects are not expected to involve amounts that would
4 materially and negatively impact earnings without the requested extraordinary rate
5 treatment.

6 **Q HAS THE COMPANY CONDUCTED ANY STUDIES OR FINANCIAL ANALYSES**
7 **TO EVALUATE THE FINANCIAL IMPACT OR SUPPORT THE NEED FOR**
8 **CONTINUED CONSTRUCTION ACCOUNTING FOR GOVERNMENT RELATIONS**
9 **AND OTHER PROJECTS, AS PROPOSED BY MR. WEISS?**

10 **A No.**¹⁷

11 **Q DO THE ANTICIPATED COSTS AMEREN MISSOURI EXPECTED TO INCUR FOR**
12 **GOVERNMENT RELOCATION PROJECTS REPRESENT SIGNIFICANT**
13 **DISCRETE NEW INVESTMENTS THAT MERIT EXTRAORDINARY REGULATORY**
14 **TREATMENT IN THE FORM OF THE PROPOSED AAO PROVISIONS?**

15 **A No.** The annual gross additions to investment for Government Relocations ranged
16 from only ***** over the past nine years.¹⁸

¹⁶ Direct Testimony of Ameren Missouri witness Warner Baxter, page 6, line 7.

¹⁷ Ameren Missouri's response to MPSC Data Requests 273 and 274.

¹⁸ Ameren Missouri's response to MPSC Data Request 117, Highly Confidential Attachment.

1 Q WITH REGARD TO THE NEW AAO THAT IS REQUESTED BY AMEREN
2 MISSOURI FOR MISCELLANEOUS PROJECT COSTS OTHER THAN
3 RELOCATIONS THAT ARE EXPECTED TO BE COMPLETED BETWEEN
4 FEBRUARY 28 AND JULY 31, 2011, HOW MUCH TOTAL CAPITAL SPENDING IS
5 ANTICIPATED THAT WOULD BE INCLUDED IN THIS AAO?

6 A A listing was provided in response to Data Request MIEC 1.30 with miscellaneous
7 projects that would total \$54.8 million over this six-month period. Again, this
8 expenditure levels is less than one tenth of the estimated total cost of the Sioux
9 Scrubber project that received AAO treatment by the Commission previously. To add
10 perspective, the Company's recovery of existing plant and other rate base investment
11 from ratepayers via depreciation and amortization expense accruals over a six-month
12 period would be more than \$213 million.¹⁹ This amount far exceeds the
13 miscellaneous project spending and the relocation project spending for which Ameren
14 Missouri is seeking new AAO authority.

15 Q HAS THERE BEEN ANY SHOWING OF NEED FOR EXTRAORDINARY
16 REGULATORY TREATMENT OF AMEREN MISSOURI'S MISCELLANEOUS
17 PROJECTS OR RELOCATION CAPITAL PROJECTS FROM A FINANCIAL
18 PERSPECTIVE?

19 A No. Special regulatory relief in the form of AAOs or rate adjustment mechanisms
20 should be reserved for instances of demonstrated financial need, where the costs in
21 question are so large and volatile, and beyond the control of management that
22 traditional, test-year regulation is incapable of producing an opportunity to earn a
23 reasonable return on prudently invested capital.

¹⁹ One half of the Total Depreciation & Amortization Expense of \$426.9 million at Schedule GSW-E12-1 attached to the Direct Testimony of Ameren Missouri witness Gary Weiss.

1 Q MR. WEISS, AT PAGES 33 TO 35 OF HIS TESTIMONY, PROVIDES
2 CALCULATIONS OF THE COMPANY'S HISTORICALLY ACHIEVED LEVEL OF
3 OPERATING INCOME AND RETURN ON EQUITY. DO THESE CALCULATIONS
4 PROVE THAT AMEREN MISSOURI IS ENTITLED TO EXCEPTIONAL
5 REGULATORY RELIEF IN THE FORM OF NEW AAOs THAT ARE BEING
6 PROPOSED?

7 A No. Aside from the obvious fact that historical performance does not accurately
8 predict future performance, the periods of lower than authorized returns set forth on
9 page 35 of Mr. Weiss' testimony represent a period of profound economic strain in
10 the broader economy, when many businesses were struggling to achieve any
11 earnings and in some instances to even survive. The fact that Ameren Missouri
12 processed two previous rate cases plus the pending case during this period suggests
13 that the Company struggled to contain its costs within the constraints of lower sales
14 and revenue growth during the economic downturn.

15 Q THE NEW AAO PROVISIONS REQUESTED FOR PLANT ADDITIONS BY MR.
16 WEISS APPEAR TO BE DIRECTED TOWARD CONCERNS THAT RATE BASE
17 GROWTH HAVE CONTRIBUTED HISTORICALLY TO EARNINGS BELOW
18 EXPECTATIONS. HAS AMEREN MISSOURI EXPERIENCED ANY SIGNIFICANT
19 EARNINGS ATTRITION DUE TO HISTORICAL GROWTH IN ITS RATE BASE
20 THAT COULD NOT BE REASONABLY ADDRESSED UNDER TRADITIONAL
21 REGULATION?

22 A No. The challenges experienced by Ameren Missouri historically apparently had little
23 to do with rate base growth or regulatory lag associated with rate base inclusion of
24 newly added plant in service. In the three years summarized by Mr. Weiss at page 35
25 of his testimony, rate base grew from \$5.89 billion to \$5.92 billion, a change of less

1 than 0.5 percent across 36 months. Rate base growth appears to be nearly
2 non-existent historically for Ameren Missouri and clearly has not contributed to any
3 alleged attrition in earnings.

4 **Q HAVE RECENT CHANGES IN THE FEDERAL INCOME TAX LAWS HELPED**
5 **AMEREN MISSOURI FUND THE INSTALLATION OF NEW PLANT IN SERVICE**
6 **WITH INTERNALLY GENERATED FUNDS AND WITHOUT EXPERIENCING ANY**
7 **SIGNIFICANT GROWTH IN ITS RATE BASE?**

8 **A** Yes. In an effort to stimulate the economy and induce capital spending by
9 businesses, Congress offered significant "bonus" depreciation deductions for tax
10 years 2008 and 2009, provisions that were recently extended to tax years 2010
11 through 2012. Bonus depreciation has created much larger accruals of ADITS to
12 account for accelerated tax recovery of new capital investments. As noted in my
13 previous testimony, Ameren Missouri has also adopted new tax accounting methods
14 to accelerate cost recovery on its tax returns, which in turn further increases ADITs
15 and reduced rate base. These trends are expected to continue in the future, at least
16 through 2012 for the extension of bonus depreciation and continuously for the tax
17 accounting method changes.

1 Q IS IT REASONABLE TO EXPECT THAT AMEREN MISSOURI WILL CONTINUE
2 TO ENJOY GROWTH IN ITS ACCUMULATED DEPRECIATION AND ADIT
3 BALANCES THAT WILL PROVIDE INTERNALLY GENERATED FUNDS FOR
4 CONSTRUCTION AND WILL TEND TO EXERT DOWNWARD PRESSURE ON
5 FUTURE RATE BASE?

6 A Yes. Mr. Weiss' exhibits show an annual recovery of depreciation and amortization
7 expense within the revenue requirement of \$427 million,²⁰ which represents both a
8 source of internally generated funds and growth in accumulated depreciation to offset
9 the cost of new plant additions.

10 Q DO THE AAO PROPOSALS ADVANCED BY AMEREN MISSOURI ACCOUNT FOR
11 ANY OF THE CHANGES IN ACCUMULATED DEPRECIATION OR ADITs THAT
12 TEND TO OFFSET GROWING RATE BASE BETWEEN RATE CASES?

13 A No. A fundamental problem with AAO accounting is the piecemeal nature of the relief
14 that is granted, which completely fails to account for ongoing growth in accumulated
15 depreciation and deferred taxes.

²⁰ Schedule GSW-E12-1 attached to the Direct Testimony of Ameren Missouri witness Gary Weiss, line 30.

1 Q HAVE YOU CONDUCTED ANY ANALYSIS OF AMEREN MISSOURI'S
2 ANTICIPATED RENEWABLE ENERGY STANDARD ("RES") COMPLIANCE
3 COSTS OR THE FUTURE IMPACT OF THE COMMISSION'S ADOPTION OF
4 ELECTRIC UTILITY RENEWABLE ENERGY STANDARD FILING
5 REQUIREMENTS AT 4 CSR 240-3.156?

6 A No. I have not been involved in any of the proceedings before the Commission
7 regarding RES matters, I am, however, aware of the fact that the Commission's
8 recently adopted RES Rule enables electric utilities to file an application to establish a
9 Renewable Energy Standard Rate Adjustment Mechanism ("RESRAM").²¹ The
10 prescribed parameters for utilization of a RESRAM appear to be very detailed in the
11 Commission's Rule, in contrast to Ameren's newly proposed AAO for vaguely defined
12 RES costs within a single paragraph at page 36 of Mr. Weiss' Direct Testimony.

13 Q WHAT IS YOUR RECOMMENDATION WITH REGARD TO AMEREN MISSOURI'S
14 NEW AAO PROPOSALS?

15 A I recommend that the Commission reject the Company's new AAO proposals. There
16 has been no showing of financial need for extraordinary regulatory treatment of the
17 costs and no justification for the distortion of test period matching that would occur if
18 these proposals were approved. Ameren Missouri has a reasonable opportunity to
19 recover costs associated with its ongoing construction programs, including relocation
20 projects, under continued traditional regulation, using the strong internally generated
21 cash flows and growing accumulated depreciation and ADIT balances to fund and
22 offset growing costs in these areas. With regard to its RES compliance costs, the

²¹ 4 CSR 240-20.100 (6).

1 Commission has established a RESRAM approach within its rules to provide an
2 opportunity to recover such costs either outside of or within rate case proceedings.

3 DSM LOST REVENUES

4 **Q IN HIS DIRECT TESTIMONY, MR. WILLIAM DAVIS SPONSORS THE COMPANY'S**
5 **RECOMMENDATIONS FOR RECOVERY OF DSM COSTS AND ALSO**
6 **SPONSORS A PROPOSAL FOR RECOVERY OF LOST REVENUES CAUSED BY**
7 **DSM PROGRAMS BETWEEN RATE CASE TEST YEARS, WHICH HE LABELS A**
8 **"FIXED COST RECOVERY MECHANISM." WHAT IS MIEC'S RESPONSE TO**
9 **THESE PROPOSALS?**

10 **A** MIEC witness Maurice Brubaker will address the DSM program cost recovery matter.
11 In this section of my testimony, I will address the Company's proposed new FCRM
12 and why this mechanism should not be implemented at this time.

13 **Q WHAT IS MIEC'S POSITION WITH REGARD TO THE PROPOSED FCRM?**

14 **A** The Commission has engaged in a rulemaking process in Case No. EX-2010-0368
15 ("rulemaking") in which a Demand-Side Programs Investment Mechanism ("DSIM") is
16 under consideration that would provide for recovery of DSM program costs, while
17 addressing other issues including lost revenues due to DSM and consideration of
18 utility incentives based on the achieved performance level of approved DSM
19 programs.²² The FCRM proposed by Ameren Missouri in this rate case should not be
20 approved at this time because of the concurrent analysis of this issue by the
21 Commission in the rulemaking proceeding. Any Ameren Missouri rate mechanism to
22 account for DSM lost revenues should be considered by the Commission upon the

²² Proposed Rule 4CSR 240-3.163 was transmitted into Case No. EX-2010-0368 on October 5, 2010 and has been the subject of comments and hearings since that date.

1 conclusion of its deliberations in Case No. EX-2010-0368, when a more complete
2 record regarding such matters exists.

3 **Q PLEASE DESCRIBE THE FCRM THAT IS SPONSORED BY MR. DAVIS.**

4 **A** The Company proposes that the Commission approve establishment of a regulatory
5 asset to account for the lost revenues from DSM programs, which Ameren Missouri
6 prefers to label "fixed cost recovery." According to Mr. Davis' direct testimony at
7 page 8:

8 The Fixed Cost Recovery Mechanism ("FCRM") seeks to recover fixed
9 costs that the utility would normally expect to recover through the sale
10 of energy absent the implementation of energy efficiency programs. A
11 base amount of fixed cost recovery would be built into rates based on
12 expected energy efficiency impacts. The FCRM would also include a
13 tracker that tracks the difference between the base amount and the
14 actual impacts of energy efficiency. In this case, AmerenUE proposes
15 that rates be set with zero prospective fixed cost recovery related to
16 energy efficiency impacts. Ideally, we would request a starting amount
17 that is representative of the expected energy efficiency impacts, then
18 true-up that estimate in subsequent rate cases. However, because
19 this would be the first implementation in Missouri of such a
20 mechanism, we are proposing to start with no initial impact to rates.
21 Periodically between rate cases the actual impacts of energy efficiency
22 on the recovery of fixed costs will be compared to the base amount (in
23 this case, zero), with the difference accumulated in a regulatory asset
24 balance to be amortized over 12 months beginning with the effective
25 date of new rates as set in the Company's next general rate case. The
26 regulatory asset would include the carrying cost, or credit associated
27 with the regulatory asset balance at the Company's AFUDC rate.

28 In its proposed form, which is discussed at page 9 of Mr. Davis' testimony and
29 illustrated in his Schedules WRD-E1 through WRD-E2, calculations would be
30 performed to isolate the portion of approved revenues from each customer class to
31 be collected on a per kWh basis, with such amounts captioned 'Fixed Cost Recovery
32 Rate (\$/kWh)' at Schedule WRD-E1, page 1. Isolating the kWh usage component of
33 revenues is intended to recognize that Customer Charge revenues and Fuel &

1 Purchased Power revenues will not be impacted by DSM results.²³ The derived
2 portion of approved volumetric revenues to be recovered on a per/kWh basis would
3 then be multiplied by "...the energy efficiency impacts" under Mr. Davis' proposal.²⁴
4 While the proposal, as quoted above, would periodically compare "the actual impacts
5 of energy efficiency" to assumptions regarding lost revenue that were included in
6 setting base rates, the methods to be used in measurement and evaluation of DSM to
7 derive such amounts is not defined by Mr. Davis.

8 **Q ASIDE FROM THE NEED TO COORDINATE RECOVERY OF DSM LOST**
9 **MARGINS WITH THE OUTCOME OF THE RULEMAKING, ARE THERE OBVIOUS**
10 **PROBLEMS WITH THE PROPOSED FCRM THAT SUPPORT REJECTION OF**
11 **THIS PROPOSAL?**

12 **A** Yes. The most obvious problem is the lack of any test to ensure that customers are
13 not reimbursing the utility for lost revenues thought to be caused by DSM in a period
14 when total kWh sales have not declined. It is quite possible that Ameren Missouri
15 could experience growing sales and revenues due to economic recovery or the
16 addition of new customers that more than offsets any sales reductions caused by
17 utility-sponsored DSM programs. The FCRM would ignore favorable changes in
18 sales volumes and associated fixed cost recovery, while deferring for future recovery
19 amounts deemed to be DSM-related lost revenues. Another problem with the
20 Company's proposal is its dependence upon reasonable quantification of the actual,
21 determinable kWh impacts from commission approved DSM programs through
22 evaluation, measurement and verification reporting protocols that are not yet

²³ Direct Testimony of Ameren Missouri witness William Davis, page 9, lines 3-8.

²⁴ Id. Line 9.

1 available and are currently under development in the rulemaking. Moreover, any "lost
2 revenue" amounts deferred for future recovery might reasonably be tied to Ameren
3 Missouri's performance relative to DSM program goals and objectives, but the
4 Company's position on this issue is that, "AmerenUE should simply be made whole
5 for the reductions in fixed cost recovery created by the existence of its energy
6 efficiency programs, regardless of the performance of any particular program."

7 **Q DOES THE COMPANY OBJECT TO INTEGRATION OF THE RESULTS FROM**
8 **THE RULEMAKING WITH ITS CONSIDERATION OF THE FCRM PROPOSAL?**

9 A This is not clear from Mr. Davis' testimony. At page 11 of his testimony, he states,
10 "... although development of the Commission's rules governing energy efficiency is
11 ongoing, this case will likely take 11 months to finish, therefore, any implication of the
12 rules could be accommodated during the case."

13 **Q SHOULD THE COMMISSION GIVE ANY CONSIDERATION TO APPROVING A**
14 **BROADER DECOUPLING MECHANISM, AS REFERENCED AT PAGE 7 OF**
15 **MR. DAVIS' TESTIMONY?**

16 A No. Many complex issues are raised when rate adjustments for overall changes in
17 sales volumes between test years, via a decoupling mechanism, are considered.
18 Utility sales volumes are influenced by many factors, including weather, economic
19 conditions, price elasticity, utility-sponsored DSM programs, improved building codes,
20 replacement of older, less-efficient appliances and customer-initiated conservation
21 measures. The utility should not be allowed to shift the risk of sales fluctuations
22 caused by all of these variables from its shareholders to its ratepayers via decoupling,
23 without a significant commensurate reduction in the authorized ROE. Decoupling is a
24 blunt instrument that is not tailored to the scope of utility-sponsored DSM results and

1 will not produce rate changes that are proportional to the lost revenues arising from
2 such DSM. Finally, decoupling is single-issue ratemaking that should generally be
3 avoided as poor regulatory policy in the absence of compelling special circumstances
4 that justify holding utility customers accountable for all changes in utility sales.

5 Q DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

6 A Yes.

Appendix A

Qualifications of Michael L. Brosch

Utilitech, Inc. – President
Bachelor of Business Administration (Accounting)
University of Missouri-Kansas City (1978)
Certified Public Accountant Examination (1979)

General

Mr. Brosch serves as the director of regulatory projects for the firm and is responsible for the planning, supervision and conduct of firm engagements. His academic background is in business administration and accounting and he holds CPA certificates in Kansas and Missouri. Expertise is concentrated within regulatory policy, financial and accounting areas with an emphasis in revenue requirements, business reorganization and alternative regulation.

Experience

Mr. Brosch has supervised and conducted the preparation of rate case exhibits and testimony in support of revenue requirements and regulatory policy issues involving more than 100 electric, gas, telephone, water, and sewer proceeding across the United States. Responsible for virtually all facets of revenue requirement determination, cost of service allocations and tariff implementation in addition to involvement in numerous utility merger, alternative regulation and other special project investigations.

Industry restructuring analysis for gas utility rate unbundling, electric deregulation, competitive bidding and strategic planning, with testimony on regulatory processes, asset identification and classification, revenue requirement and unbundled rate designs and class cost of service studies.

Analyzed and presented testimony regarding income tax related issues within ratemaking proceedings involving interpretation of relevant IRS code provisions and regulatory restrictions.

Conducted extensive review of the economic impact upon regulated utility companies of various transactions involving affiliated companies. Reviewed the parent-subsidiary relationships of integrated electric and telephone utility holding companies to determine appropriate treatment of consolidated tax benefits and capital costs. Sponsored testimony on affiliated interests in numerous Bell and major independent telephone company rate proceedings.

Has substantial experience in the application of lead-lag study concepts and methodologies in determination of working capital investment to be included in rate base.

Conducted alternative regulation analyses for clients in Arizona, California, Texas and Oklahoma, focused upon challenges introduced by cost-based regulation, incentive effects available through alternative regulation and balancing of risks, opportunities and benefits among stakeholders.

Mr. Brosch managed the detailed regulatory review of utility mergers and acquisitions, diversification studies and holding company formation issues in energy and telecommunications transactions in multiple states. Sponsored testimony regarding merger synergies, merger accounting and tax implications, regulatory planning and price path strategies. Traditional horizontal utility mergers as well as leveraged buyouts of utility properties by private equity investors were addressed in several states.

Analyzed the regulation of telephone company publishing affiliates, including the propriety of continued imputation of directory publishing profits and the valuation of publishing affiliates, including the identification and quantification of intangible assets and benefits of affiliation with the regulated business in Arizona, Indiana, Washington and Utah.

Work History

- 1985 – Present: **Principal** - Utilitech, Inc. (Previously Dittmer, Brosch and Associates, Inc.)
- 1983 - 1985: **Project manager** - Lubow McKay Stevens and Lewis.
Responsible for supervision and conduct of utility regulatory projects on behalf of industry and regulatory agency clients.
- 1982 - 1983: **Regulatory Consultant** - Troupe Kehoe Whiteaker and Kent.
Responsible for management of rate case activities involving analysis of utility operations and results, preparation of expert testimony and exhibits, and issue development including research and legal briefs. Also involved in numerous special projects including financial analysis and utility systems planning. Taught firm's professional education course on "utility income taxation - ratemaking and accounting considerations" in 1982.
- 1978 - 1982: **Senior Regulatory Accountant** - Missouri Public Service Commission.
Supervised and conducted rate case investigations of utilities subject to PSC jurisdiction in response to applications for tariff changes. Responsibilities included development of staff policy on ratemaking issues, planning and evaluating work of outside consultants, and the production of comprehensive testimony and exhibits in support of rate case positions taken.

Other Qualifications

Bachelor of Business Administration - Accounting, 1978
University of Missouri - Kansas City "with distinction"

Member American Institute of Certified Public Accountants
 Missouri Society of Certified Public Accountants
 Kansas Society of Certified Public Accountants

Attended Iowa State Regulatory Conference 1981, 1985
 Regulated Industries Symposium 1979, 1980
 Michigan State Regulatory Conference 1981
 United States Telephone Association Round Table 1984
 NARUC/NASUCA Annual Meeting 1988, Speaker
 NARUC/NASUCA Annual Meeting 2000, Speaker
 NASUCA Regional Consumer Protection Meeting 2007, Speaker

Instructor INFOCAST Ratemaking Courses
 Arizona Staff Training
 Hawaii Staff Training

MICHAEL L. BROSCHE
Summary of Previously Filed Testimony

Utility	Jurisdiction	Agency	Docket/Case Number	Party Represented	Year	Areas Addressed
Green Hills Telephone Company	Missouri	PSC	TR-78-282	Staff	1978	Rate Base, Operating Income
Kansas City Power and Light Co.	Missouri	PSC	ER-78-252	Staff	1978	Rate Base, Operating Income
Missouri Public Service Company	Missouri	PSC	ER-79-59	Staff	1979	Rate Base, Operating Income
Nodaway Valley Telephone Company	Missouri	PSC	10,567	Staff	1979	Rate Base, Operating Income
Gas Service Company	Missouri	PSC	GR-79-114	Staff	1979	Rate Base, Operating Income
United Telephone Company	Missouri	PSC	TO-79-227	Staff	1979	Rate Base, Operating Income
Southwestern Bell Telephone Co.	Missouri	PSC	TR-79-213	Staff	1979	Rate Base, Operating Income
Missouri Public Service Company	Missouri	PSC	ER-80-118 GR-80-117	Staff	1980	Rate Base, Operating Income
Southwestern Bell Telephone Co.	Missouri	PSC	TR-80-256	Staff	1980	Affiliate Transactions
United Telephone Company	Missouri	PSC	TR-80-235	Staff	1980	Affiliate Transactions, Cost Allocations
Kansas City Power and Light Co.	Missouri	PSC	ER-81-42	Staff	1981	Rate Base, Operating Income
Southwestern Bell Telephone	Missouri	PSC	TR-81-208	Staff	1981	Rate Base, Operating Income, Affiliated Interest
Northern Indiana Public Service	Indiana	PSC	36689	Consumers Counsel	1982	Rate Base, Operating Income
Northern Indiana Public Service	Indiana	URC	37023	Consumers Counsel	1983	Rate Base, Operating Income, Cost Allocations
Mountain Bell Telephone	Arizona	ACC	9981-E1051-81-406	Staff	1982	Affiliated Interest
Sun City Water	Arizona	ACC	U-1656-81-332	Staff	1982	Rate Base, Operating Income

MICHAEL L. BROSCH
Summary of Previously Filed Testimony

Utility	Jurisdiction	Agency	Docket/Case Number	Party Represented	Year	Areas Addressed
Sun City Sewer	Arizona	ACC	U-1656-81-331	Staff	1982	Rate Base, Operating Income
El Paso Water	Kansas	City Counsel	Unknown	Company	1982	Rate Base, Operating Income, Rate of Return
Ohio Power Company	Ohio	PUCO	83-98-EL-AIR	Consumer Counsel	1983	Operating Income, Rate Design, Cost Allocations
Dayton Power & Light Company	Ohio	PUCO	83-777-GA-AIR	Consumer Counsel	1983	Rate Base
Walnut Hill Telephone	Arkansas	PSC	83-010-U	Company	1983	Operating Income, Rate Base
Cleveland Electric Illum.	Ohio	PUCO	84-188-EL-AIR	Consumer Counsel	1984	Rate Base, Operating Income, Cost Allocations
Cincinnati Gas & Electric	Ohio	PUCO	84-13-EL-EFC	Consumer Counsel	1984	Fuel Clause
Cincinnati Gas & Electric	Ohio	PUCO	84-13-EL-EFC (Subfile A)	Consumer Counsel	1984	Fuel Clause
General Telephone - Ohio	Ohio	PUCO	84-1026-TP-AIR	Consumer Counsel	1984	Rate Base
Cincinnati Bell Telephone	Ohio	PUCO	84-1272-TP-AIR	Consumer Counsel	1985	Rate Base
Ohio Bell Telephone	Ohio	PUCO	84-1535-TP-AIR	Consumer Counsel	1985	Rate Base
United Telephone - Missouri	Missouri	PSC	TR-85-179	Staff	1985	Rate Base, Operating Income
Wisconsin Gas	Wisconsin	PSC	05-UI-18	Staff	1985	Diversification- Restructuring
United Telephone - Indiana	Indiana	URC	37927	Consumer Counsel	1986	Rate Base, Affiliated Interest
Indianapolis Power & Light	Indiana	URC	37837	Consumer Counsel	1986	Rate Base
Northern Indiana Public Service	Indiana	URC	37972	Consumer Counsel	1986	Plant Cancellation Costs

MICHAEL L. BROSCHE
Summary of Previously Filed Testimony

Utility	Jurisdiction	Agency	Docket/Case Number	Party Represented	Year	Areas Addressed
Northern Indiana Public Service	Indiana	URC	38045	Consumer Counsel	1986	Rate Base, Operating Income, Cost Allocations, Capital Costs
Arizona Public Service	Arizona	ACC	U-1435-85-367	Staff	1987	Rate Base, Operating Income, Cost Allocations
Kansas City, KS Board of Public Utilities	Kansas	BPU	87-1	Municipal Utility	1987	Operating Income, Capital Costs
Detroit Edison	Michigan	PSC	U-8683	Industrial Customers	1987	Income Taxes
Consumers Power	Michigan	PSC	U-8681	Industrial Customers	1987	Income Taxes
Consumers Power	Michigan	PSC	U-8680	Industrial Customers	1987	Income Taxes
Northern Indiana Public Service	Indiana	URC	38365	Consumer Counsel	1987	Rate Design
Indiana Gas	Indiana	URC	38080	Consumer Counsel	1987	Rate Base
Northern Indiana Public Service	Indiana	URC	38380	Consumers Counsel	1988	Rate Base, Operating Income, Rate Design, Capital Costs
Terre Haute Gas	Indiana	URC	38515	Consumers Counsel	1988	Rate Base, Operating Income, Capital Costs
United Telephone -Kansas	Kansas	KCC	162,044-U	Consumers Counsel	1989	Rate Base, Capital Costs, Affiliated Interest
US West Communications	Arizona	ACC	E-1051-88-146	Staff	1989	Rate Base, Operating Income, Affiliate Interest
All Kansas Electrics	Kansas	KCC	140,718-U	Consumers Counsel	1989	Generic Fuel Adjustment Hearing
Southwest Gas	Arizona	ACC	E-1551-89-102 E-1551-89-103	Staff	1989	Rate Base, Operating Income, Affiliated Interest

MICHAEL L. BROSCHE
Summary of Previously Filed Testimony

Utility	Jurisdiction	Agency	Docket/Case Number	Party Represented	Year	Areas Addressed
American Telephone and Telegraph	Kansas	KCC	167,493-U	Consumers Counsel	1990	Price/Flexible Regulation, Competition, Revenue Requirements
Indiana Michigan Power	Indiana	URC	38728	Consumer Counsel	1989	Rate Base, Operating Income, Rate Design
People Gas, Light and Coke Company	Illinois	ICC	90-0007	Public Counsel	1990	Rate Base, Operating Income
United Telephone Company	Florida	PSC	891239-TL	Public Counsel	1990	Affiliated Interest
Southwestern Bell Telephone Company	Oklahoma	OCC	PUD-000662	Attorney General	1990	Rate Base, Operating Income (Testimony not admitted)
Arizona Public Service Company	Arizona	ACC	U-1345-90-007	Staff	1991	Rate Base, Operating Income
Indiana Bell Telephone Company	Indiana	URC	39017	Consumer Counsel	1991	Test Year, Discovery, Schedule
Southwestern Bell Telephone Company	Oklahoma	OCC	39321	Attorney General	1991	Remand Issues
UtiliCorp United/Centel	Kansas	KCC	175,476-U	Consumer Counsel	1991	Merger/Acquisition
Southwestern Bell Telephone Company	Oklahoma	OCC	PUD-000662	Attorney General	1991	Rate Base, Operating Income
United Telephone - Florida	Florida	PSC	910980-TL	Public Counsel	1992	Affiliated Interest
Hawaii Electric Light Company	Hawaii	PUC	6999	Consumer Advocate	1992	Rate Base, Operating Income, Budgets/Forecasts
Maui Electric Company	Hawaii	PUC	7000	Consumer Advocate	1992	Rate Base, Operating Income, Budgets/Forecasts

MICHAEL L. BROSCHE
Summary of Previously Filed Testimony

Utility	Jurisdiction	Agency	Docket/Case Number	Party Represented	Year	Areas Addressed
Southern Bell Telephone Company	Florida	PSC	920260-TL	Public Counsel	1992	Affiliated Interest
US West Communications	Washington	WUTC	U-89-3245-P	Attorney General	1992	Alternative Regulation
UtiliCorp United/MPS	Missouri	PSC	ER-93-37	Staff	1993	Affiliated Interest
Oklahoma Natural Gas Company	Oklahoma	OCC	PUD-1151, 1144, 1190	Attorney General	1993	Rate Base, Operating Income, Take or Pay, Rate Design
Public Service Company of Oklahoma	Oklahoma	OCC	PUD-1342	Staff	1993	Rate Base, Operating Income, Affiliated Interest
Illinois Bell Telephone	Illinois	ICC	92-0448 92-0239	Citizens Board	1993	Rate Base, Operating Income, Alt. Regulation, Forecasts, Affiliated Interest
Hawaii Electric Company	Hawaii	PUC	7700	Consumer Advocate	1993	Rate Base, Operating Income
US West Communications	Arizona	ACC	E-1051-93-183	Staff	1994	Rate Base, Operating Income
PSI Energy, Inc.	Indiana	URC	39584	Consumer Counselor	1994	Rate Base, Operating Income, Alt. Regulation, Forecasts, Affiliated Interest
Arkla, a Division of NORAM Energy	Oklahoma	OCC	PUD-940000354	Attorney General	1994	Cost Allocations, Rate Design
PSI Energy, Inc.	Indiana	URC	39584-S2	Consumer Counselor	1994	Merger Costs and Cost Savings, Non-Traditional Ratemaking
Transok, Inc.	Oklahoma	OCC	PUD-1342	Staff	1994	Rate Base, Operating Income, Affiliated Interest, Allocations

MICHAEL L. BROSCHE
Summary of Previously Filed Testimony

Utility	Jurisdiction	Agency	Docket/Case Number	Party Represented	Year	Areas Addressed
Oklahoma Natural Gas Company	Oklahoma	OCC	PUD-940000477	Attorney General	1995	Rate Base, Operating Income, Cost of Service, Rate Design
US West Communications	Washington	WUTC	UT-950200	Attorney General/ TRACER	1995	Operating Income, Affiliate Interest, Service Quality
PSI Energy, Inc.	Indiana	URC	40003	Consumer Counselor	1995	Rate Base, Operating Income
Oklahoma Natural Gas Company	Oklahoma	OCC	PUD-880000598	Attorney General	1995	Stand-by Tariff
GTE Hawaiian Telephone Co., Inc.	Hawaii	PUC	PUC 94-0298	Consumer Advocate	1996	Rate Base, Operating Income, Affiliate Interest, Cost Allocations
Mid-American Energy Company	Iowa	ICC	APP-96-1	Consumer Advocate	1996	Non-Traditional Ratemaking
Oklahoma Gas and Electric Company	Oklahoma	OCC	PUD-960000116	Attorney General	1996	Rate Base, Operating Income, Rate Design, Non-Traditional Ratemaking
Southwest Gas Corporation	Arizona	ACC	U-1551-96-596	Staff	1997	Operating Income, Affiliated Interest, Gas Supply
Utilicorp United - Missouri Public Service Division	Missouri	PSC	EO-97-144	Staff	1997	Operating Income
US West Communications	Utah	PSC	97-049-08	Consumer Advocate	1997	Rate Base, Operating Income, Affiliate Interest, Cost Allocations
US West Communications	Washington	WUTC	UT-970766	Attorney General	1997	Rate Base, Operating Income
Missouri Gas Energy	Missouri	PSC	GR 98-140	Public Counsel	1998	Affiliated Interest
ONEOK	Oklahoma	OCC	PUD980000177	Attorney General	1998	Gas Restructuring, rate Design, Unbundling

MICHAEL L. BROSCHE
Summary of Previously Filed Testimony

Utility	Jurisdiction	Agency	Docket/Case Number	Party Represented	Year	Areas Addressed
Nevada Power/Sierra Pacific Power Merger	Nevada	PSC	98-7023	Consumer Advocate	1998	Merger Savings, Rate Plan and Accounting
PacifiCorp / Utah Power	Utah	PSC	97-035-1	Consumer Advocate	1998	Affiliated Interest
MidAmerican Energy / CalEnergy Merger	Iowa	PUB	SPU-98-8	Consumer Advocate	1998	Merger Savings, Rate Plan and Accounting
American Electric Power / Central and South West Merger	Oklahoma	OCC	980000444	Attorney General	1998	Merger Savings, Rate Plan and Accounting
ONEOK Gas Transportation	Oklahoma	OCC	970000088	Attorney General	1998	Cost of Service, Rate Design, Special Contract
U S West Communications	Washington	WUTC	UT-98048	Attorney General	1999	Directory Imputation and Business Valuation
U S West / Qwest Merger	Iowa	PUB	SPU 99-27	Consumer Advocate	1999	Merger Impacts, Service Quality and Accounting
U S West / Qwest Merger	Washington	WUTC	UT-991358	Attorney General	2000	Merger Impacts, Service Quality and Accounting
U S West / Qwest Merger	Utah	PSC	99-049-41	Consumer Advocate	2000	Merger Impacts, Service Quality and Accounting
PacifiCorp / Utah Power	Utah	PSC	99-035-10	Consumer Advocate	2000	Affiliated Interest
Oklahoma Natural Gas, ONEOK Gas Transportation	Oklahoma	OCC	980000683, 980000570, 990000166	Attorney General	2000	Operating Income, Rate Base, Cost of Service, Rate Design, Special Contract
U S West Communications	New Mexico	PRC	3008	Staff	2000	Operating Income, Directory Imputation

MICHAEL L. BROSCH
Summary of Previously Filed Testimony

Utility	Jurisdiction	Agency	Docket/Case Number	Party Represented	Year	Areas Addressed
U S West Communications	Arizona	ACC	T-0105B-99-0105	Staff	2000	Operating Income, Rate Base, Directory Imputation
Northern Indiana Public Service Company	Indiana	IURC	41746	Consumer Counsel	2001	Operating Income, Rate Base, Affiliate Transactions
Nevada Power Company	Nevada	PUCN	01-10001	Attorney General-BCP	2001	Operating Income, Rate Base, Merger Costs, Affiliates
Sierra Pacific Power Company	Nevada	PUCN	01-11030	Attorney General-BCP	2002	Operating Income, Rate Base, Merger Costs, Affiliates
The Gas Company, Division of Citizens Communications	Hawaii	PUC	00-0309	Consumer Advocate	2001	Operating Income, Rate Base, Cost of Service, Rate Design
SBC Pacific Bell	California	PUC	1.01-09-002 R.01-09-001	Office of Ratepayer Advocate	2002	Depreciation, Income Taxes and Affiliates
Midwest Energy, Inc.	Kansas	KCC	02-MDWG-922-RTS	Agriculture Customers	2002	Rate Design, Cost of Capital
Qwest Communications – Dex Sale	Utah	PSC	02-049-76	Consumer Advocate	2003	Directory Publishing
Qwest Communications – Dex Sale	Washington	WUTC	UT-021120	Attorney General	2003	Directory Publishing
Qwest Communications – Dex Sale	Arizona	ACC	T-0105B-02-0000	Staff	2003	Directory Publishing
PSI Energy, Inc.	Indiana	IURC	42359	Consumer Counsel	2003	Operating Income, Rate Trackers, Cost of Service, Rate Design
Qwest Communications – Price Cap Review	Arizona	ACC	T-0105B-03-0454	Staff	2004	Operating Income, Rate Base, Fair Value, Alternative Regulation

MICHAEL L. BROSCH
Summary of Previously Filed Testimony

Utility	Jurisdiction	Agency	Docket/Case Number	Party Represented	Year	Areas Addressed
Verizon Northwest Corp	Washington	WUTC	UT-040788	Public Counsel	2004	Directory Publishing, Rate Base, Operating Income
Citizens Gas & Coke Utility	Indiana	IURC	42767	Consumer Counsel	2005	Operating Income, Debt Service, Working Capital, Affiliate Transactions, Alternative Regulation
Hawaiian Electric Company	Hawaii	HPUC	04-0113	Consumer Advocate	2005	Operating Income, Rate Base, Cost of Service, Rate Design
Sprint/Nextel Corporation	Washington	WUTC	UT-051291	Public Counsel	2006	Directory Publishing, Corporate Reorganization
Puget Sound Energy, Inc.	Washington	WUTC	UE-060266 and UG-060267	Public Counsel	2006	Alternative Regulation
Hawaiian Electric Company	Hawaii	HPUC	05-0146	Consumer Advocate	2006	Community Benefits / Rate Discounts
Cascade Natural Gas Company	Washington	WUTC	UG-060259	Public Counsel	2006	Alternative Regulation
Arizona Public Service Company	Arizona	ACC	E-01345A-05-0816	Staff	2006	Cost of Service Allocations
Hawaiian Electric Company	Hawaii	HPUC	05-0146	Consumer Advocate	2006	Capital Improvements and Discounted Rates
Hawaii Electric Light Company	Hawaii	HPUC	05-0315	Consumer Advocate	2006	Operating Income, Rate Base, Cost of Service, Rate Design
Union Electric Company d/b/a AmerenUE	Missouri	PSC	2007-0002	Attorney General	2007	Operating Income, Rate Base, Fuel Adjustment Clause

MICHAEL L. BROSCHE
Summary of Previously Filed Testimony

Utility	Jurisdiction	Agency	Docket/Case Number	Party Represented	Year	Areas Addressed
Hawaiian Electric Company	Hawaii	PUC	2006-0386	Consumer Advocate	2007	Operating Income, Cost of Service, Rate Design
Maui Electric Company	Hawaii	PUC	2006-0387	Consumer Advocate	2007	Operating Income, Cost of Service, Rate Design
Peoples Gas / North Shore Gas Company	Illinois	ICC	07-0241 07-0242	Attorney General	2007	Rate Adjustment Clauses
Commonwealth Edison	Illinois	ICC	07-0566	Attorney General, City	2008	Ratemaking Policy, Rate Trackers
Illinois Power Company, Illinois Public Service Co., Central Illinois Public Service Co	Illinois	ICC	07-0585 cons.	Attorney General/CUB	2008	Rate Adjustment Clauses
Southwestern Public Service Company	Texas	PUCT	35763	Municipalities	2008	Operating Income, Rate Base, Affiliate Transactions
The Gas Company	Hawaii	PUC	2008-0081	Consumer Advocate	2009	Operating Income, Rate Base, Affiliate Transactions, Cost of Service, Rate Design
Hawaiian Electric Company	Hawaii	PUC	2008-0083	Consumer Advocate	2009	Operating Income, Rate Base, Affiliate Transactions, Cost of Service, Rate Design
Commonwealth Edison	Illinois	ICC	2009-0263	Attorney General	2009	Rate Adjustment Clauses
Avista Corporation	Washington	WUTC	UG-060518	Attorney General	2009	Rate Adjustment Clauses
Kauai Island Utility Cooperative	Hawaii	PUC	2009-0050	Consumer Advocate	2009	Operating Income, Cooperative Ratemaking Policies, Cost of Service

MICHAEL L. BROSCH
Summary of Previously Filed Testimony

Utility	Jurisdiction	Agency	Docket/Case Number	Party Represented	Year	Areas Addressed
Maui Electric Company	Hawaii	PUC	2009-0163	Consumer Advocate	2010	Operating Income, Rate Base, Cost of Service, Rate Design
Hawaii Electric Light Company	Hawaii	PUC	2009-0164	Consumer Advocate	2010	Operating Income, Rate Base, Cost of Service, Rate Design
Commonwealth Edison	Illinois	ICC	2010-0467	AG / CUB	2010	Operating Income, Rate Base
Commonwealth Edison	Illinois	ICC	2010-0527	Attorney General	2010	Alternative Regulation
Atmos Pipeline-Texas	Texas	RCT	GUD 10000	Cities	2010	Operating Income, Rate Base, Cost of Service

\\Doc\Shares\ProlawDocs\TSK\9371\Testimony\192625.doc

**AMEREN MISSOURI
CASE NO. ER-2011-0028**

**INCOME TAX EXPENSE ADJUSTMENT
TEST YEAR ENDED MARCH 31, 2010
\$000**

LINE NO.	DESCRIPTION	REFERENCE	AMOUNT
	(A)	(B)	(C)
1	<u>Income Tax Deductions Omitted by Ameren Missouri:</u>		
2	Employee Stock Ownership Plan Dividends Deduction (Total Ameren)	MPSC 350	\$ 9,149
3	Times: Number of Employees Allocation to Ameren Missouri	Note (a)	<u>55.17%</u>
4	ESOP Dividends Deduction - Ameren Missouri Share	Line 2 x Line 3	5,048
5	Add: Ameren Missouri Preferred Stock Dividends Paid Deduction	MPSC 350	<u>415</u>
6	Total of Additional Income Tax Deduction Amounts Omitted by Ameren	Lines 4 + 5	<u>5,463</u>
7	Times: Composite Federal / State Income Tax Rate	Note (b)	<u>38.39%</u>
8	MIEC Adjustment to Recognize Income Tax Savings From Omitted ESOP and Preferred Dividends Deductions		<u>\$ (2,097)</u>

Footnotes:

(a) Source: Ameren Management Services Allocation Factor 004c, number of employees, per response to Data Request MPSC 40.

(b) Composite Tax Rate Calculation:

State Statutory Tax Rate	6.25%
Federal Statutory Tax Rate	35.00%
Federal Effective Tax Rate	33.18%
State Effective Tax Rate	<u>5.21%</u>
Combined Effective Tax Rate	<u>38.39%</u>

AMEREN MISSOURI
CASE NO. ER-2011-0028

CITY EARNINGS TAX REMOVAL
TEST YEAR ENDED MARCH 31, 2010
\$000

LINE NO.	DESCRIPTION	REFERENCE	AMOUNT
	(A)	(B)	(C)
1	St. Louis City Earnings Tax Included in Ameren Missouri Filing	Schedule GSW-E14, Line 29	\$ 358
2	MIEC Adjustment to Eliminated Ameren Missouri Proposed City Earnings Tax Expense		\$ (358)

**AMEREN MISSOURI
CASE NO. ER-2011-0028**

**ACCUMULATED DEFERRED INCOME TAX REVISIONS
TEST YEAR ENDED MARCH 31, 2010
\$000**

NON-PROPRIETARY

LINE NO.	DESCRIPTION	REFERENCE	AMOUNT
	(A)	(B)	(C)
1	<u>Accumulated Deferred Income Tax Revisions Conceded by Ameren:</u>	MIEC 10.20	Note (a)
2	Employee Bonus Accruals & Payments	MIEC 1.37	
3	Pension/OPEB Tracker Note (b)	"	
4	Tax Reserve Interest	"	
5	Illinois Enterprise Zone Tax Credits	"	
6	Sum of Revisions Conceded by Ameren	Lines 2..5	
7	Add: MIEC Adjustment to Exclude Vacation Pay Accrual ADIT	MIEC 1.37	
8	MIEC Adjustment to Eliminate Certain ADIT Elements from Rate Base	Lines 6 + 7	\$ (7,471)

Footnotes:

- (a) All amounts are subject to change at True-up of ADIT balances.
- (b) This amount should be synchronized with final Pension/OPEB liability in rate base.

**AMEREN MISSOURI
CASE NO. ER-2011-0028**

**ACCUMULATED DEFERRED INCOME TAX REVISIONS
TEST YEAR ENDED MARCH 31, 2010
\$000**

NON-PROPRIETARY

LINE NO.	DESCRIPTION	REFERENCE	AMOUNT
	(A)	(B)	(C)
1	<u>Accumulated Deferred Income Tax FIN 48 Reclassifications:</u>		
2		MIEC 1.37	
3		"	
4		"	
5		"	
6	Sum of FIN 48 Uncertain Tax Position Reclassifications by Ameren	Lines 2..5	
8	MIEC Adjustment to Include Uncertain Tax Position ADIT Elements in Rate Base	Line 6	

Footnotes:

- (a) All amounts are subject to change at True-up of ADIT balances.
- (b) These UTP amounts are not included in the MIEC Adjustment, because in response to MIEC Data Request 13.5, Ameren Missouri indicated these deduction amounts have not been realized in cash.