

Exhibit No.:  
Issue(s):  
Witness/Type of Exhibit:  
Sponsoring Party:  
Case No.:

---

Solar Rebate  
Kind/Rebuttal  
Public Counsel  
ET-2014-0085

## **REBUTTAL TESTIMONY**

**OF**

**RYAN KIND**

Submitted on Behalf of  
the Office of the Public Counsel

**AMEREN MISSOURI**

**Case No. ET-2014-0085**

\*\*

\*\*

**Denotes Highly Confidential Information that has been Redacted**

October 25, 2013

***NP***



**REBUTTAL TESTIMONY**  
**OF**  
**RYAN KIND**  
**UNION ELECTRIC COMPANY D/B/A AMEREN MISSOURI**  
**CASE NO. ET-2014-0085**

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

2 A. Ryan Kind, Chief Energy Economist, Office of the Public Counsel, P.O. Box 2230,  
3 Jefferson City, Missouri 65102.

4 **Q. PLEASE SUMMARIZE YOUR EDUCATIONAL AND EMPLOYMENT BACKGROUND.**

5 A. I have a B.S.B.A. in Economics and a M.A. in Economics from the University of  
6 Missouri-Columbia (UMC). While I was a graduate student at UMC, I was employed as  
7 a Teaching Assistant with the Department of Economics, and taught classes in  
8 Introductory Economics, and Money and Banking, in which I served as a Lab Instructor  
9 for Discussion Sections.

10 My previous work experience includes several years of employment with the Missouri  
11 Division of Transportation as a Financial Analyst. My responsibilities at the Division of  
12 Transportation included preparing transportation rate proposals and testimony for rate  
13 cases involving various segments of the trucking industry. I have been employed as an  
14 economist at the Office of the Public Counsel (Public Counsel or OPC) since 1991.

15 **Q. HAVE YOU TESTIFIED PREVIOUSLY BEFORE THIS COMMISSION?**

Rebuttal Testimony of  
Ryan Kind

1 A. Yes, prior to this case I submitted written testimony in numerous gas rate cases, several  
2 electric rate design cases and rate cases, as well as other miscellaneous gas, water,  
3 electric, and telephone cases.

4 **Q. HAVE YOU PROVIDED COMMENTS OR TESTIMONY TO OTHER REGULATORY OR**  
5 **LEGISLATIVE BODIES ON THE SUBJECT OF UTILITY REGULATION AND**  
6 **RESTRUCTURING?**

7 A. Yes, I have provided comments and testimony to the Federal Energy Regulatory  
8 Commission (FERC), the Missouri House of Representatives Utility Regulation  
9 Committee, the Missouri Senate's Commerce & Environment Committee and the  
10 Missouri Legislature's Joint Interim Committee on Telecommunications and Energy.

11 **Q. HAVE YOU BEEN A MEMBER OF, OR PARTICIPANT IN, ANY WORK GROUPS,**  
12 **COMMITTEES, OR OTHER GROUPS THAT HAVE ADDRESSED ELECTRIC AND GAS UTILITY**  
13 **REGULATION AND POLICY ISSUES?**

14 A. Yes. I am currently a member of the National Association of State Consumer Advocates  
15 (NASUCA) Electric Committee, and the Stakeholder Steering Committee (SSC) of the  
16 Eastern Interconnection Planning Collaborative (EIPC). I have served on the Missouri  
17 Department of Natural Resources Weatherization Policy Advisory Committee, as the  
18 public consumer group representative to the Midwest ISO's (MISO's) Advisory  
19 Committee and as the small customer representative on both the NERC Operating  
20 Committee and the NERC Standards Authorization Committee. During the early 1990s, I  
21 served as a Staff Liaison to the Energy and Transportation Task Force of the President's  
22 Council on Sustainable Development.

23

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

**Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

A. The purpose of my rebuttal testimony is to respond to the direct testimony of Union Electric Company (UE or the Company) witness Matt Michels.

**Q. PLEASE DESCRIBE OPC'S GENERAL REACTION TO UE'S APPLICATION IN THIS CASE.**

A. UE is really going out on a limb in trying to justify ending payments for solar rebates during the last few weeks of 2013. It has included costs for RECs associated with the Pioneer Prairie wind farm as RES compliance costs when all of the costs associated with the RECs and energy output of this wind farm were incurred in order to fulfill a commitment made two years prior to the voters' approval of the renewable energy initiative in November of 2008. In addition, UE includes the costs of wind generation in future years as a RES compliance cost when it has never corrected the deficient modeling of wind resources that occurred in its 2011 IRP filing. Until it corrects these deficiencies, UE cannot claim that it is incurring costs for wind generation that are directly attributable to RES compliance since these costs may have instead been incurred in the course of adding resources to UE's generation mix that were chosen because of the superior cost and risk profile characteristics of wind generation.

**Q. WHAT RELIEF HAS UE REQUESTED IN ITS APPLICATION IN THIS CASE?**

A. UE is requesting that the Commission (1) authorize the suspension of solar rebate payments pursuant to §393.1030 RSMo (reflecting changes to this statute resulting from the passage and signing of HB 142 in 2013) and (2) authorize a variance from 4 CSR 240-20.100(1)(N).

**Q. DOES OPC SUPPORT THE COMMISSION GRANTING THE RELIEF REQUESTED BY UE?**

1 A. No. Public Counsel believes the Commission should deny both requests.

2 **Q. WHERE CAN THE APPROVAL CRITERIA BE FOUND FOR COMMISSION DETERMINATIONS**  
3 **REGARDING THE SUSPENSION OF SOLAR REBATES AS REQUESTED BY UE IN ITS**  
4 **APPLICATION?**

5 A. That approval criteria is in section 3. of §393.1030 RSMo which states:

6 3. As provided for in this section, except for those electrical corporations  
7 that qualify for an exemption under section 393.1050, each electric utility  
8 shall make available to its retail customers a solar rebate for new or  
9 expanded solar electric systems sited on customers' premises, up to a  
10 maximum of twenty-five kilowatts per system, measured in direct current  
11 that were confirmed by the electric utility to have become operational in  
12 compliance with the provisions of section 386.890. The solar rebates  
13 shall be two dollars per watt for systems becoming operational on or  
14 before June 30, 2014; one dollar and fifty cents per watt for systems  
15 becoming operational between July 1, 2014, and June 30, 2015; one  
16 dollar per watt for systems becoming operational between July 1, 2015,  
17 and June 30, 2016; fifty cents per watt for systems becoming operational  
18 between July 1, 2016, and June 30, 2017; fifty cents per watt for systems  
19 becoming operational between July 1, 2017, and June 30, 2019; twenty-  
20 five cents per watt for systems becoming operational between July 1,  
21 2019, and June 30, 2020; and zero cents per watt for systems becoming  
22 operational after June 30, 2020. An electric utility may, through its  
23 tariffs, require applications for rebates to be submitted up to one hundred  
24 eighty-two days prior to the June thirtieth operational date. Nothing in  
25 this section shall prevent an electrical corporation from offering rebates  
26 after July 1, 2020, through an approved tariff. **If the electric utility**  
27 **determines the maximum average retail rate increase provided for in**  
28 **subdivision (1) of subsection 2 of this section will be reached in any**  
29 **calendar year, the electric utility shall be entitled to cease paying**  
30 **rebates to the extent necessary to avoid exceeding the maximum**  
31 **average retail rate increase if the electrical corporation files with the**  
32 **commission to suspend its rebate tariff for the remainder of that**  
33 **calendar year at least sixty days prior to the change taking effect.**  
34 **The filing with the commission to suspend the electrical**  
35 **corporation's rebate tariff shall include the calculation reflecting**  
36 **that the maximum average retail rate increase will be reached and**  
37 **supporting documentation reflecting that the maximum average**  
38 **retail rate increase will be reached. The commission shall rule on the**  
39 **suspension filing within sixty days of the date it is filed. If the**  
40 **commission determines that the maximum average retail rate**  
41 **increase will be reached, the commission shall approve the tariff**  
42 **suspension.** The electric utility shall continue to process and pay  
43 applicable solar rebates until a final commission ruling; however, if the

Rebuttal Testimony of  
Ryan Kind

1 continued payment causes the electric utility to pay rebates that cause it  
2 to exceed the maximum average retail rate increase, the expenditures  
3 shall be considered prudently incurred costs as contemplated by  
4 subdivision (4) of subsection 2 of this section and shall be recoverable as  
5 such by the electric utility. As a condition of receiving a rebate,  
6 customers shall transfer to the electric utility all right, title, and interest in  
7 and to the renewable energy credits associated with the new or expanded  
8 solar electric system that qualified the customer for the solar rebate for a  
9 period of ten years from the date the electric utility confirmed that the  
10 solar electric system was installed and operational. [Emphasis added.]

11 A key passage from the above statute is the last sentence that appears in bold above  
12 stating that “If the commission determines that the maximum average retail rate increase  
13 will be reached, the commission shall approve the tariff suspension.”

14 **Q. HOW DOES THE COMMISSION MAKE ITS DETERMINATION ABOUT WHETHER “THE**  
15 **MAXIMUM AVERAGE RETAIL RATE INCREASE WILL BE REACHED”?**

16 A. The Commission’ rules that were promulgated to implement §393.1030 RSMo are  
17 contained in 4 CSR 240-20.100. These rules are titled “Electric Utility Renewable  
18 Energy Standard (RES) Requirements.” Section (5) of 4 CSR 240-20.100 sets forth the  
19 process that is to be used for calculation of the Retail Rate Impact (RRI) associated with  
20 RES compliance. Therefore, the Commission must use this process to make its  
21 determination of whether an application requesting the suspension of solar rebate  
22 payments shall be granted or denied.

23 **Q. HAS UE PROVIDED ANALYSIS AS PART OF ITS APPLICATION THAT PURPORTS TO**  
24 **SHOW THAT CALCULATIONS PERFORMED IN ACCORDANCE WITH 4 CSR 240-**  
25 **20.100(5) DEMONSTRATE THAT THE RRI LIMIT OF 1% WILL BE EXCEEDED IF UE**  
26 **CONTINUES PAYING SOLAR REBATES THROUGHOUT ALL OF 2013?**

27 A. Yes. UE witness Matt Michels on page 2 at lines 20 – 23 states that:

28 Ameren Missouri determined that it would exceed the 1% retail rate  
29 impact (“RRI”) limitation provided for by the RES statute (Section

1 393.1030.2(1)) and which is also addressed in the Commission's RES  
2 rules, including in 4 CSR 240-20.100(5).

3 **Q. DOES PUBLIC COUNSEL BELIEVE UE'S ANALYSIS AND CALCULATIONS SUPPORT ITS**  
4 **CONTENTION THAT "IT WOULD EXCEED THE 1% RETAIL RATE IMPACT ("RRI")**  
5 **LIMITATION PROVIDED FOR BY THE RES STATUTE (SECTION 393.1030.2(1)) AND**  
6 **WHICH IS ALSO ADDRESSED IN THE COMMISSION'S RES RULES?"**

7 A. No. There are two fundamental flaws with the RRI calculations performed by UE that I  
8 will address in this testimony. First, UE includes the costs of RECs from the Pioneer  
9 Prairie wind farm PPA in its RRI calculation and these costs are clearly not directly  
10 attributable to RES compliance. Second, UE includes RES compliance costs for future  
11 wind farms in its RRI calculations even though it has not performed any new IRP  
12 analysis to correct the deficiencies with its wind modeling that the Commission found in  
13 the IRP analysis that UE filed in Case No. EO-2011-0271. UE has no basis for  
14 determining what wind generation costs, if any, should be attributed to RES compliance  
15 until it corrects the wind modeling deficiencies found by the Commission in Case No.  
16 EO-2011-0271.

17 **Q. PLEASE EXPLAIN WHY YOU BELIEVE THE COSTS OF RECS FROM THE PIONEER**  
18 **PRAIRIE WIND FARM PPA ARE NOT DIRECTLY ATTRIBUTABLE TO RES COMPLIANCE?**

19 A. The costs associated with the Pioneer Prairie wind farm PPA are directly attributable to  
20 UE's fulfillment of the commitment that it made in Case No. ER-2007-0002 for  
21 "including at least 100 MW of wind in its generation portfolio."<sup>1</sup> This commitment was  
22 first stated in that case by Ameren Services Vice President Michael Moehn in his direct

---

<sup>1</sup> Post-hearing Brief of Union Electric Company D/B/A AmerenUE, page. 157.



Rebuttal Testimony of  
Ryan Kind

1 testimony filed on July 6, 2006 where he stated on page 17 that “AmerenUE is willing to  
2 commit to adding 100 MW of wind power to its generating fleet by 2010.” UE entered  
3 into a purchase power agreement (PPA) with Horizon Wind Energy for approximately  
4 100 MW of wind in order to fulfill the commitment that it had made in Case No. ER-  
5 2007-0002, over two years before the RES initiative was passed by voters in November  
6 2008. The fact that UE did not enter into the Horizon Wind Energy Pioneer Prairie wind  
7 farm PPA for RES compliance also means there is no support or justification for the  
8 variance that UE has requested in this case.

9 **Q. WOULD IT BE REASONABLE FOR UE TO CLAIM THAT THE RECS ASSOCIATED WITH**  
10 **PIONEER PRAIRIE SHOULD BE CONSIDERED A RES COMPLIANCE COST EVEN THOUGH**  
11 **AGREEMENT TO ENTER IN TO THE PIONEER PRAIRIE WIND FARM PPA WAS DIRECTLY**  
12 **ATTRIBUTABLE TO UE’S FULFILLMENT OF THE COMMITMENT THAT IT MADE IN CASE**  
13 **NO. ER-2007-0002 FOR INCLUDING AT LEAST 100 MW OF WIND IN ITS GENERATION**  
14 **PORTFOLIO PRIOR TO 2010?**

15 A. Definitely not. When UE acquires RECs associated with a wind PPA, those RECs are  
16 available to comply with the RES but that availability does not mean that the RECs  
17 should have a compliance cost amount applied to them when the acquisition of those  
18 RECs was not directly attributable to RES compliance.

19 **Q. PLEASE PROVIDE ADDITIONAL INFORMATION REGARDING THE SECOND FLAW THAT**  
20 **YOU CITED REGARDING UE’S RRI CALCULATIONS?**

21 A. I noted above that the second flaw in UE’s RRI is that UE includes RES compliance costs  
22 for future wind farms even though it has not performed any new IRP analysis to correct  
23 the deficiencies with its wind modeling that the Commission found in the IRP analysis  
24 that UE filed in Case No. EO-2011-0271. The Commission’s Report and Order in UE’s

1 most recent triennial IRP, filed in Case No. EO-2011-0271, found UE was deficient in its  
2 modeling of wind resources in response to issues raised by both MO DNR and OPC. In  
3 response to deficiencies raised by OPC the Commission stated on page 22 of its order  
4 that:

5 ...it is important that wind resources be appropriately modeled so that  
6 Ameren Missouri has access to all relevant facts when it makes its  
7 decisions. Ameren Missouri's modeling of wind resources is deficient.

8 **Q. HOW DOES A DEFICIENCY IN UE'S MODELING OF WIND RESOURCES RELATE TO THE**  
9 **RRI CALCULATIONS PRESENTED BY UE IN THIS CASE?**

10 A. Those calculations include the cost of adding wind resources in later years for what UE  
11 asserts is the cost of RES compliance. However, until UE properly models wind, it will  
12 not know whether it will need to add any wind resources for RES compliance since it  
13 won't know how much wind will be included in future preferred resource plans that are  
14 selected based upon IRP modeling that corrects the current deficiencies in UE's modeling  
15 of wind resources.

16 **Q. HAS UE HAD THE OPPORTUNITY TO ADDRESS THE WIND MODELING DEFICIENCIES**  
17 **IDENTIFIED BY THE COMMISSION IN CASE NO. EO-2011-0271?**

18 A. Yes, UE could have addressed these deficiencies in its 2012 or 2013 IRP annual updates  
19 but it has chosen not to do so. The Commission provided guidance to UE on when it  
20 could correct the deficiencies related to wind and other IRP issues in ordered paragraph 1  
21 on page 30 of its Report and Order in Case No. EO-2011-0271 where it stated:

22 1. The Commission finds that the 2011 Integrated Resource Planning  
23 filing submitted by Union Electric Company, d/b/a Ameren Missouri,  
24 does not demonstrate compliance with the requirements of Commission  
25 Rule 4 CSR 240-22 in certain respects described in the body of this  
26 order. Union Electric Company, d/b/a Ameren Missouri, shall correct  
27 those deficiencies in its 2014 triennial integrated resource planning filing  
28 and in upcoming annual updates as appropriate.

1           UE has not yet performed the modeling necessary to correct the wind deficiency issues  
2           identified by OPC and DNR and confirmed by the Commission in its order.

3           **Q. HAS UE ADDRESSED THE TIMING OF WHEN IT MAY CORRECT THE WIND MODELING**  
4           **DEFICIENCIES FOUND BY THE COMMISSION?**

5           A. Yes. This was first addressed in Case No. 2012-0357 (UE's 2012 Annual IRP Update).  
6           The Post-Workshop Summary Report filed by UE in that case on May 30, 2012 states:

7                           \*\*

8  
9  
10  
11  
12  
13  
14  
15

                         \*\* (See page 3 of Attachment 1)

16           OPC has not yet been notified of UE's \*\*                           \*\* referenced above to  
17           correct the wind modeling deficiencies identified by OPC.

18           **Q. HAS UE EVER PERFORMED THE ANALYSIS NECESSARY TO CORRECT THE WIND**  
19           **MODELING DEFICIENCIES FOUND BY THE COMMISSION?**

20           A. No. In order to do so, UE would need to create alternative resource plans that include  
21           wind in a manner that addresses the deficiencies found by the Commission in UE's 2011  
22           IRP and then analyze these alternative resource plans and compare them to other  
23           alternative resource plans. This analysis has not been done. UE did, however, claim in  
24           its 2013 IRP update that it had already addressed some of its wind modeling deficiencies  
25           in its 2012 IRP update although this contradicts the above quoted statement from its 2012  
26           IRP update.

Rebuttal Testimony of  
Ryan Kind

1 In its 2013 IRP update report UE asserts that it had already performed analysis as part of  
2 its 2012 IRP update to correct the wind deficiencies identified by OPC and confirmed by  
3 the Commission in its order in UE's 2011 IRP case. This assertion appears on page 9 of  
4 UE's 2013 update report where it states:

5 The evaluation of the impact of both the existing RES and an alternative  
6 RES in the Company's 2012 IRP Annual Update clearly showed that the  
7 inclusion of additional wind as a stand-alone resource option results in an  
8 increase in costs to customers, even when the resource build is spread  
9 over many years and is not needed to meet capacity requirements. This is  
10 consistent with the results of the RES compliance analysis included in  
11 the 2011 IRP and satisfies the first portion [OPC's portion] of the  
12 deficiency related to wind analysis.

13 UE has never explained the discrepancy between its 2012 update which said it would  
14 address deficiencies in its 2011 IRP filing "following a final ruling by the Commission"  
15 regarding rehearing motions in the 2011 IRP case and its statement in the 2013 IRP  
16 update filing that it had already performed analysis in its 2012 IRP update filing to  
17 address the wind deficiencies identified by OPC and confirmed by the Commission. UE  
18 has also not explained why the RES compliance analysis that it references to assert it  
19 has resolved the deficiency should be considered sufficient to correct the deficiency.  
20 This is the same type of RES compliance analysis that UE referenced in its  
21 Application for Rehearing where it sought rehearing on the Commission  
22 determinations regarding OPC's wind modeling deficiencies. The Commission  
23 denied UE's request for rehearing so it is unclear why UE would now assert that the  
24 same type of analysis contained in UE's failed request for rehearing could satisfy the  
25 wind deficiency.

26 **Q. HAS UE PROVIDED SUFFICIENT INFORMATION FOR THE COMMISSION TO DETERMINE,**  
27 **PURSUANT TO §393.1030(3) RSMo IF THE "THE MAXIMUM AVERAGE RETAIL RATE**  
28 **INCREASE WILL BE REACHED?"**

Rebuttal Testimony of  
Ryan Kind

1 A. No, as explained in the above testimony, UE has not performed modeling of wind  
2 resources in a manner that complies with the Commission's IRP rules so it is not possible  
3 to determine what level of wind generation costs, if any, should be included in the RRI  
4 calculation. Without this crucial cost input to the RRI calculation, the RRI calculation  
5 cannot be relied on at this time for the Commission to determine that the "the maximum  
6 average retail rate increase will be reached." Absent this determination, there is no  
7 rationale for ending UE's solar rebate payments at this time.

8 **Q. IF THE COMMISSION ACCEPTS OPC'S POSITION THAT THE COMMISSION DOES NOT**  
9 **HAVE SUFFICIENT INFORMATION TO DETERMINE THAT UE SHOULD STOP PAYING**  
10 **SOLAR REBATES BECAUSE IT IS UNABLE TO DETERMINE WHETHER "THE MAXIMUM**  
11 **AVERAGE RETAIL RATE INCREASE WILL BE REACHED, DOES THIS MEAN THAT UE'S**  
12 **PAYMENTS OF SOLAR REBATE IN 2013 SHOULD BE FOUND TO BE PRUDENT**  
13 **EXPENDITURES?**

14 A. No. The Commission's inability to make this determination at this time is the result of  
15 choices UE has made about the timing and manner in which it responds to the wind  
16 deficiencies in its 2011 IRP and UE, not ratepayers, should be responsible for the  
17 ratemaking consequences of those decisions.

18 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

19 A. Yes.

Attachment 1  
has been deemed  
“Highly Confidential”  
in its entirety.