

Exhibit No.:  
Issues: ADIT in rate base, Sec. 199  
manufacturing deduction  
Witness: Charles A. Mannix  
Sponsoring Party: Union Electric Company  
Type of Exhibit: Rebuttal Testimony  
Case No.: ER-2007-0002  
Date Testimony Prepared: January 31, 2007

**MISSOURI PUBLIC SERVICE COMMISSION**

**CASE NO. ER-2007-0002**

**REBUTTAL TESTIMONY**

**OF**

**CHARLES A. MANNIX**

**ON**

**BEHALF OF**

**UNION ELECTRIC COMPANY  
d/b/a AmerenUE**

**St. Louis, Missouri  
January, 2007**

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1 **REBUTTAL TESTIMONY**  
2 **OF**  
3 **CHARLES A. MANNIX**  
4 **CASE NO. ER-2007-0002**  
5

6 **Q. Please state your name and business address.**

7 A. My name is Charles A. Mannix. My business address is One Ameren Plaza, 1901  
8 Chouteau Avenue, St. Louis, Missouri 63166-6149.

9 **Q. Who is your employer and what is your title?**

10 A. I am employed by Ameren Services Company as the Manager of Income Taxes.

11 **Q. What is your educational background?**

12 A. In 1980, I received a Bachelor of Science degree in Accounting from Saint  
13 Joseph's University, Philadelphia, PA. In 1995, I received a Juris Doctorate degree from  
14 Widener University School of Law, Wilmington, DE. I was licensed as a Certified Public  
15 Accountant in Pennsylvania in 1986 and was admitted to the Pennsylvania Bar in 1995.

16 **Q. What are your responsibilities as Manager of Income Taxes for Ameren**  
17 **Services Company?**

18 A. I oversee the income tax staff and am responsible for the income tax accounting  
19 and income tax compliance for Ameren Corporation and its subsidiaries. I also assist the Vice  
20 President & Tax Counsel for Ameren Services Company with income tax planning.

21 **Q. What pertinent industry experience have you had prior to your role at**  
22 **Ameren Services Company?**

23 A. Prior to joining Ameren Services in October of 2004, I was employed as the  
24 Director of Taxes for Exelon Generation Company headquartered in Kennett Square,

1 Pennsylvania for approximately four years. In this capacity I was responsible for tax accounting,  
2 tax compliance and tax planning for the generation business line of Exelon Corporation. Prior to  
3 joining Exelon, I was the Manager of Taxes for Conectiv, a public utility holding company  
4 located in Wilmington, Delaware. In this capacity I was responsible for tax accounting, tax  
5 compliance and tax planning for the parent holding company and its subsidiaries.

6 **Q. Did you file any Direct Testimony in this proceeding?**

7 A. No, I did not.

8 **Q. What is the purpose of your Rebuttal Testimony in this proceeding?**

9 A. The purpose of my testimony is to respond to the direct testimony of Stephen M.  
10 Rackers in regard to Staff's adjustments to deferred income taxes reflected in Rate Base on  
11 Accounting Schedule 2, line 22 and described on pages 8 and 9 of his direct testimony. I will  
12 also respond to the direct testimony of Steven C. Carver in regard to the Deferred Income Tax  
13 Reserve Adjustment described on pages 15 and 16 of his direct testimony. In addition, my  
14 testimony responds to Staff's adjustment to the Income Tax Calculation with respect to the  
15 Internal Revenue Code Section 199 deduction on Schedule 11, line 12 and described on page 7  
16 of Mr. Rackers' direct testimony. I will also address the testimony of Michael Brosch related to  
17 this matter on pages 40, 41, and 42 of his direct testimony.

18

19 **Accumulated Deferred Income Taxes**

20 **Q. What is the nature of the adjustments to Accumulated Deferred Income**  
21 **Taxes ("ADIT") proposed by Mr. Rackers and Mr. Carver?**

22 A. Mr. Rackers and Mr. Carver are attempting to align the ADIT offset to rate base  
23 with the underlying transactions included in the calculation of rate base. In addition, Mr. Carver

1 recommends updating the ADIT balances through January 1, 2007 in order to be consistent with  
2 the Commission's Procedural Order.

3 **Q. What is your concern with these adjustments?**

4 A. The Company agrees that the ADIT should be aligned with the underlying  
5 transactions in the rate base calculation. My concern is that Mr. Rackers' adjustment was not  
6 complete in excluding all of the appropriate ADIT from the calculation of the rate base offset.  
7 The Company agrees with Mr. Carver's recommendation to update the ADIT through January 1,  
8 2007.

9 **Q. How do you propose to completely and consistently align the ADIT offset to**  
10 **the underlying rate base transactions?**

11 A. A meeting with Mr. Rackers, Mr. Carver and the Company was held to review  
12 each item giving rise to a deferred tax and to determine if it was appropriate to include the ADIT  
13 in the rate base offset. The outcome of that meeting is reflected on Schedule CAM -1-1 of my  
14 testimony. We were able to agree to substantially all of the items to be included in the ADIT  
15 offset.

16 **Q. Were there any items that were not agreed upon? If so, please explain the**  
17 **nature of those items.**

18 A. Yes, two items could not be agreed upon. Both of these items relate to overheads  
19 that are capitalized for book but were deducted for tax purposes.

20 **Q. What was the first ADIT item upon which the Company and Staff did not**  
21 **agree?**

22 A. The Mixed Service Cost Receivable relates to a payment of tax to the government  
23 for an accounting method change related to the deductibility of overheads. This receivable will

1 be settled by the Internal Revenue Service (“Service”) in one of two ways. The Service will  
2 either accept an amended return that was filed in 2002 that reflected a refund for an accounting  
3 method change, or the Service will reject that claim and the Company will amend the 2003  
4 through 2006 tax returns to reflect a net refund for the disallowed accounting method change that  
5 resulted in the payments to the government. While this is listed as a receivable on the books of  
6 the Company, it really represents an outflow of funds in the amount of \$63,488,938 by the  
7 Company for tax benefits that will be received at a future date. This is very similar in nature to a  
8 deferred tax asset and should be included in the rate base offset.

9 **Q. Why is there not agreement on the Mixed Service Cost item?**

10 A. The position of Staff on the Mixed Service Cost Receivable was that receivables  
11 should not be included in the rate base offset. Their position is based on the location of the item  
12 on the balance sheet under the appropriate accounting standards and does not take into account  
13 the true nature of the cash outflow. Staff’s position is a form over substance approach. The  
14 Company, on the other hand, believes that investors should be entitled to a return for providing  
15 the necessary funds to support Company investments used to provide regulated service to  
16 ratepayers. The mixed service costs have clearly been incurred in the process of providing  
17 regulated service to the ratepayers. It only seems appropriate that the funds expended for the tax  
18 implications of these mixed service costs should likewise be included in the investment in rate  
19 base calculation even though the GAAP accounting treatment required the item to reside in a  
20 receivable account.

21 **Q. What was the other ADIT item upon which the Company and Staff did not**  
22 **agree?**

1           A.     The other item that was not agreed upon by the parties was Indirect Overheads  
2 that are capitalized for books but deducted for tax. The dollar amount of this item at 1/1/07 is  
3 \$28,536,007. As of 1/1/07 **\*\*\_\_\_\_\_\*\*** percent of this balance will be removed from ADIT as  
4 part of the required adoption of Financial Interpretation Number 48 (“FIN48”) by the Company.

5           **Q.     Why is there not agreement on the Indirect Overhead item?**

6           A.     The parties could not agree to an appropriate allocation of the risk associated with  
7 this uncertain tax position. As of 1/1/07 the applicable GAAP accounting treatment requires that  
8 uncertain tax positions related to temporary differences must be removed from the deferred tax  
9 accounts. By their very nature uncertain tax positions represent items for which some doubt  
10 exists about the sustainability of positions taken on tax returns. When a future tax liability is  
11 uncertain it would be inappropriate to allow the item to reduce rate base. This would provide an  
12 inappropriate windfall to ratepayers if and when the item was reversed by the Service and the  
13 benefit to the Company disappears. Likewise, it is not appropriate to have the item removed  
14 entirely from rate base because if the uncertain position is ultimately sustained then the investor  
15 would have the inappropriate windfall. The parties faced this conundrum and could not, in the  
16 time allotted, determine an appropriate allocation methodology.

17           **Q.     What do you propose as a solution to this uncertain tax position?**

18           A.     I think the fairest method for dealing with this is to not include the benefit or  
19 detriment of the uncertain tax position in the rate making process. If an uncertain position is  
20 subsequently sustained after being excluded from the rate making process then a true up  
21 mechanism in the form of a regulatory asset or liability should be set up in order to provide for  
22 recovery by the ratepayer in the next rate case including the time value of waiting to receive the  
23 benefit. If, on the other hand, the position is not sustained then the item can be ignored since

1 neither the investor nor the ratepayer received anything for the uncertain position. In terms of  
2 determining the level of benefit or detriment to include in ratemaking for the uncertain tax  
3 position, it would appear that the GAAP standard should be used since this requires extensive  
4 documentation and independent auditor attestation.

5 **Q. Under this approach, what would be the implication for the Indirect**  
6 **Overhead item that is the subject of debate?**

7 **A.** As reflected on Schedule CAM-1-1, and based on the documentation available  
8 and the third party review of this issue, I believe that **\*\* \_\_\_\_\_ \*\*** should remain in the rate  
9 base offset.

10 **Q. Based on your understanding of the issues what should be the total amount**  
11 **of the ADIT offset to rate base?**

12 **A.** As reflected on Schedule CAM-1-1, The ADIT offset to rate base should be  
13 \$1,108,439,383.

14 **Q. Do you have any other things to discuss related to ADIT?**

15 **A.** In closing, on ADIT, I want to reserve the right to address any changes to the  
16 agreed upon items as the parties progress through the rate case.

17 **Section 199 Domestic Production Activities Deduction**

18 **Q. Have the parties agreed to anything on the Section 199 Domestic Production**  
19 **Activities Deduction?**

20 **A.** There have been several discussions related to this deduction by the parties but  
21 there is not general agreement on the amount to be included in the Income Tax Calculation on  
22 Schedule 11, line 12. Attorney General witness Mr. Brosch has raised some issues in our

1 informal discussions that were not part of his direct testimony on the Section 199 deduction issue  
2 and will require some research into the rate case data.

3 **Q. Why can't the parties agree on this item?**

4 A. This deduction is the result of a complex calculation that uses information from  
5 all aspects of the power production part of the business. It has been difficult to find and utilize  
6 information in the rate case that is comparable to the methodology employed to prepare the tax  
7 return. The parties are working together to identify the differences in each approach and to  
8 synchronize the methodology used. It appears that the concerns revolve around what information  
9 is used and are not centered on theoretical issues.

10 **Q. What is the Company's current position on the Section 199 deduction?**

11 A. The Company's position is to accept Staff's calculation as reflected on  
12 Accounting Schedule 11, Line 12. This calculation applied the 2007 rate of 6%.

13 **Q. Do you recommend any other action to be taken on the calculation of this  
14 deduction?**

15 A. I suggest that the parties continue working toward an agreement on the  
16 appropriate data to be used in the calculation. A more detailed comparison of the approaches  
17 used by the parties is being prepared and this should serve as a document to stimulate further  
18 discussions and a possible agreement on final numbers. The Company reserves the right to  
19 address any other testimony offered by the parties on this particular issue.

20 **Q. Does this conclude your rebuttal testimony?**

21 A. Yes.

**SCHEDULE CAM-1-1**  
**HAS BEEN DEEMED**  
**HIGHLY CONFIDENTIAL**  
**IN ITS ENTIRETY**

