Exhibit No.:	
Witness:	Maurice Brubaker
Type of Exhibit:	Direct Testimony
Issues:	Revenue Requirement Issues
Sponsoring Party:	Missouri Industrial Energy Consumers
Case No.:	ER-2010-0036

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Union Electric Company, d/b/a AmerenUE's Tariffs to Increase Its Annual Revenues for Electric Service	))))))	**Case No. ER-2010-0036** Tariff Nos. YE-2010-0054 and YE-2010-0055

Direct Testimony and Schedule of

Maurice Brubaker

Revenue Requirement

NON-PROPRIETARY VERSION

On behalf of

Missouri Industrial Energy Consumers

December 18, 2009

BAI

BRUBAKER & ASSOCIATES, INC.
CHESTERFIELD, MO 63017

Project 9187

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

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STATE OF MISSOURI)
) **SS**
COUNTY OF ST. LOUIS)

Affidavit of Maurice Brubaker

Maurice Brubaker, being first duly sworn, on his oath states:

1. My name is Maurice Brubaker. I am a consultant with Brubaker & Associates, Inc., having its principal place of business at 16690 Swingley Ridge Road, Suite 140, Chesterfield, Missouri 63017. 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 schedule which were prepared in written form for introduction into evidence in Missouri Public Service Commission Case No. ER-2010-0036.

3. I hereby swear and affirm that the testimony and schedule are true and correct and that they show the matters and things that they purport to show.

Maurice Brubaker
Maurice Brubaker

Subscribed and sworn to before me this 17th day of December 2009.

TAMMY S. KLOSSNER
Notary Public - Notary Seal
STATE OF MISSOURI
St. Charles County
My Commission Expires: Mar. 14, 2011
Commission # 07024862

Tammy S. Klossner
Notary Public

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Direct Testimony of Maurice Brubaker

Q PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A Maurice Brubaker. My business address is 16690 Swingley Ridge Road, Suite 140, Chesterfield, MO 63017.

Q WHAT IS YOUR OCCUPATION?

A I am a consultant in the field of public utility regulation and President of Brubaker & Associates, Inc., energy, economic and regulatory consultants.

Q PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND EXPERIENCE.

A This information is included in Appendix A to my testimony.

Q ON WHOSE BEHALF ARE YOU APPEARING IN THIS PROCEEDING?

A This testimony is presented on behalf of the Missouri Industrial Energy Consumers (MIEC). These companies purchase substantial quantities of electricity from AmerenUE, principally at the primary and transmission voltage levels.

Their cost of electricity would increase approximately 18% if AmerenUE were granted the full amount of the increase which it has requested. This proceeding will have a substantial impact on these companies' cost of doing business, and thus they are vitally interested in the outcome.

Q WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?

A In this testimony, I address demand-side management (DSM) issues raised by AmerenUE witness Stephen M. Kidwell, and also present our position on AmerenUE's proposed Environmental Cost Recovery Mechanism (ECRM). In addition, I identify the other witnesses who will testify in this phase on behalf of MIEC, indicating the general subjects addressed in their testimony and presenting a quantification of the adjustments which they are proposing to AmerenUE's requested revenue requirement.

Q WHAT AMOUNT OF INCREASE HAS AMERENUE REQUESTED?

A The overall increase requested is $402 million, or about 18%. According to the testimony of AmerenUE witness Warner L. Baxter at page 5 of his direct testimony, approximately $227 million is attributable to rebasing the net fuel costs that, in the absence of this rate case, would be reflected through the existing fuel adjustment clause. The remaining portion of the increase, approximately $175 million, has been attributed to increases in non-fuel costs.

Q DO YOU BELIEVE THAT AMERENUE HAS JUSTIFIED ITS PROPOSED OVERALL INCREASE OF $402 MILLION?

A No. I believe that the evidence shows AmerenUE's claimed revenue requirement and revenue increase to be significantly overstated. We have analyzed in detail many, but not all, of the significant revenue requirement issues, and found that in these areas alone, AmerenUE has overstated its revenue requirement by at least \$263 million. Thus, even before considering the impact of additional adjustments that other parties may be pursuing and presenting in their evidence, AmerenUE's claimed revenue increase should be reduced by more than 65% of its requested amount.

Q DO YOU HAVE ANY GENERAL COMMENTS CONCERNING THE NATURE OF AMERENUE'S REQUESTED RATE INCREASE AND THE CONDITION OF ITS SERVICE TERRITORY?

A Yes. AmerenUE has presented its rate case primarily from the perspective of its stockholders. Other than an acknowledgement by Mr. Baxter at page 5 of his direct testimony that a rate increase of this magnitude will present hardships for some customers, AmerenUE's presentation is all about the need to get more money and to get it faster. While it is important that utilities maintain their financial integrity in order to provide safe, adequate and reliable service, it also is important to recognize that the money required to accomplish those objectives comes from customers. Customers in this case are being asked to shoulder an 18% overall rate increase.

Missouri certainly has not escaped the economic woes that have beset America. The Bureau of Labor Statistics reports that the unemployment rate in Missouri for October 2009 (preliminary number) was 9.3%. While down slightly from 9.5% reported for August and September, this is a very high rate of unemployment.

According to the St. Louis Federal Reserve Bank, manufacturing employment in Missouri has declined from about 360,000 jobs in the year 2000, to 260,000 jobs currently, a drop of about 100,000 manufacturing jobs, or more than 25%. More than 40,000 of those jobs have been lost just since January 2007. Many of these losses have occurred in the AmerenUE service territory.

Information compiled and published by the Missouri Department of Economic Development and information compiled and published by the St. Louis Regional Commerce and Growth Association both indicate that over the past 12 months non-farm employment in the St. Louis area has declined by more than 50,000 jobs.

While AmerenUE complains about not being able to earn its "authorized return on equity," it is distinguishable from most other businesses in that it has a place to go to get administrative relief in the form of higher prices if it believes that costs have risen faster than revenues. Most businesses do not have that luxury. Whereas, for electric utilities, prices are set equal to costs plus profits; in the competitive world the process is much different, prices are not "set" at a level that includes profits. Rather, prices are set in the marketplace and profit equals what is left, if anything, after covering costs. This is a much different paradigm than in the regulated world. Businesses who are customers of AmerenUE are also the employers in the service territory, and most have seen their profitability decrease, or even turn into a loss during the economic downturn. These are the companies who provide employment in the area and are the lifeblood of the economy.

The economic downturn has spared few. MIEC urges the Commission, to the extent possible, to keep these facts in mind when appraising AmerenUE's need to collect more money from its customers at this point in time, as well as its requests for new regulatory mechanisms which would allow it to collect revenues sooner than otherwise would be possible.

Q PLEASE IDENTIFY THE WITNESSES PRESENTING TESTIMONY ON BEHALF OF MIEC, AND BRIEFLY DESCRIBE THE SUBJECT AREAS THAT EACH WILL ADDRESS.

A My testimony will serve to present an overall summary of our positions on the revenue requirement issues that we are addressing. I will also address DSM cost recovery issues and present our position on the ECRM.

Mr. Michael Gorman presents evidence concerning the appropriate cost of equity and overall rate of return for AmerenUE.

Mr. James Selecky presents evidence concerning appropriate depreciation rates for AmerenUE. In addition, he addresses certain issues pertaining to incentive compensation.

Mr. James Dauphinais will present testimony concerning AmerenUE's production cost modeling, fuel costs and off-system sales.

Mr. Greg Meyer presents evidence concerning production and distribution system operation and maintenance (O&M) expenses, employment levels, executive salaries, and additional information concerning incentive compensation. In addition, he addresses expenses pertaining to vegetation management, storm costs, infrastructure inspections and repairs.

Q PLEASE SUMMARIZE THE REVENUE REQUIREMENT ADJUSTMENTS THAT MIEC IS SPONSORING.

A

- **Michael Gorman:** With regard to the cost of equity, Mr. Gorman has determined that an appropriate return on equity (ROE) for AmerenUE would be within a range of 9.5% to 10.5%, in contrast to AmerenUE's proposed level of 11.5%. AmerenUE's requested ROE is significantly above its cost of capital, and should not be accepted. At a mid-point 10% ROE, the claimed revenue increase is reduced by $71.3 million.

Each ten basis points (one-tenth of a percentage point) in ROE equals a revenue requirement of approximately $4.6 million. With Mr. Gorman's range, the variation is, accordingly, minus $23 million to plus $23 million from the mid-point.

- **James Selecky:** Mr. Selecky makes several adjustments to AmerenUE's proposed depreciation expense.

  For transmission, he recommends reducing AmerenUE's proposed depreciation expense by $2 million per year and for distribution a reduction of $33 million per year. For the production system, he recommends a reduction of $46 million per year from AmerenUE's proposed level of depreciation expense.

  In the area of incentive compensation, he recommends a decrease of $10.6 million based on Company performance, shareholder and ratepayer expectations and overall economic conditions.

- **Greg Meyer:** Mr. Meyer recommends a reduction to production system O&M expense of $27.8 million and a reduction of $6.9 million to distribution O&M expense in order to remove abnormally high test year proposed expense levels. He recognizes a reduction in employment levels and proposes a reduction of $7.0 million in these expenses. Concerning incentive compensation, he adjusts the expense on the books of AmerenUE to reflect the actual incentive compensation payments in March 2009. He then adjusts the actual incentive payments to disallow the financial aspects of the incentive plans. The value of these adjustments is $3.6 million. His executive salary adjustment is $1.8 million. The adjustments he makes to certain items that are tracked, such as vegetation management costs, storm costs, infrastructure inspection costs, and repairs produces a decrease of $16.2 million from proposed test year levels.

His proposed adjustments total $64.5 million.

- **James Dauphinais:** Mr. Dauphinais has modeled the AmerenUE generation system, including off-system transactions, using the RealTime model, which also is used by the Commission Staff. His analysis reveals certain inconsistencies and deficiencies which cause AmerenUE to overstate the amount of fuel costs that it will incur and to understate the amount of sales it will be able to conduct in the off-system sales market. Included within his adjustments is a reduction of $18.0 million for nuclear fuel expense which will not be incurred until after the true-up date for this rate case. Mr. Dauphinais concludes that AmerenUE has overstated its net power costs by $48.6 million.

Q HAVE YOU PREPARED A TABLE TO SUMMARIZE THESE ADJUSTMENTS?

A Yes. Please see Schedule MEB-RR-1 attached to this testimony.

Q WHAT DOES THIS TABLE SHOW?

A It shows that on a total company basis we have identified $228 million of non-fuel related revenue requirement claims that should be disallowed. On a Missouri jurisdictional basis, this is approximately $217 million. These adjustments amount to more than all of AmerenUE's proposed $175 million increase in non-fuel revenues. In addition, we have identified $48.6 million of net fuel-related costs on a total company basis, or about $46 million on a Missouri jurisdictional basis, that are not reasonable to include in the re-basing of the fuel cost.

Q HAVE YOU COMPLETED YOUR REVIEW OF AMERENUE'S FILING?

A No. AmerenUE has been late in responding to a number of data requests, and as of the time our testimony had to be completed, a number of overdue requests are still outstanding. As a result, it may be appropriate for MIEC to update its testimony or address particular issues in rebuttal.

<u>Demand-Side Management Programs</u>

Q ARE YOU FAMILIAR WITH THE DIRECT TESTIMONY OF AMERENUE WITNESS STEPHEN M. KIDWELL?

A Yes, I am. Mr. Kidwell presents testimony that primarily addresses cost recovery for demand-side resources.

Q WHAT ARE DEMAND-SIDE RESOURCES?

A Demand-side resources include both energy efficiency measures and demand response measures. Energy efficiency measures are actions or installations that reduce the amount of electricity required to achieve a given end-use or comfort level. Demand response generally refers to measures designed to reduce the demands of a particular customer or piece of equipment at the time of the system peak or during other critical peak hours, or to shift in time the incidence of a demand away from system peak or other critical times to hours when the system is less stressed.

Q WHAT IS THE CURRENT COST RECOVERY MECHANISM FOR DEMAND-SIDE INVESTMENTS?

A At pages 12 and 13 of his testimony, Mr. Kidwell states that these costs are booked to a regulatory asset and amortized over a period of ten years, including a return at the Company's allowance for funds used during construction (AFUDC) rate. He then points out that this is a lower rate of return than AmerenUE is allowed the opportunity to earn on its investments in supply-side resources.

Q IN YOUR VIEW, WOULD IT BE REASONABLE FOR AMERENUE TO HAVE THE OPPORTUNITY TO EARN THE SAME RETURN ON INVESTMENT FOR ITS DEMAND-SIDE PROGRAMS AS FOR ITS SUPPLY-SIDE PROGRAMS?

A As a general proposition, I believe it is reasonable for AmerenUE to have an opportunity to earn the same rate of return on both supply-side and demand-side resources. Of course, demand-side resources should be required to meet the same kinds of tests that supply-side resources have to meet to be included in rate base. Among other things, this would mean that the costs were determined to have been prudently incurred and the assets are used and useful.

Q OVER WHAT PERIOD OF TIME IS AMERENUE CURRENTLY ALLOWED TO AMORTIZE THE REGULATORY ASSET ASSOCIATED WITH ITS DEMAND-SIDE INVESTMENTS?

A The current authorized amortization period is ten years.

Q AT PAGES 14 AND 15 OF HIS TESTIMONY, MR. KIDWELL STATES THAT THE TEN-YEAR AMORTIZATION PERIOD WAS THE RESULT SIMPLY OF JUDGMENT AND HAS "…NO BASIS…" IS THERE A BASIS FOR THIS AMORTIZATION PERIOD?

A Yes. Let me first address the broader conceptual issue. The idea of treating demand-side and supply-side resources comparably extends not only to allowing the utility to earn the same rate of return on the asset, but also extends to the recovery period. The costs of supply-side resources are recovered over their estimated useful life through a provision for depreciation. In the case of demand-side resources, the equivalent asset is a "regulatory asset," and the recovery is by means of an amortization. Thus, depreciation of supply-side resources and amortization of demand-side resources are equivalent concepts that accomplish the same purpose. Just as depreciation over the expected life of an asset is the norm for supply-side resources, amortization of the regulatory asset over the life of the related demand-side measure is the appropriate recovery period for demand-side resources.

Q WHY IS THIS THE APPROPRIATE AMORTIZATION OR DEPRECATION PERIOD?

A This is the appropriate time line because the objective is to match the cost associated with the resource to the customers taking service at the time the benefits of the resource are being realized. Depreciating or amortizing the asset value over the expected useful life accomplishes this desirable goal.

Q HAVE YOU PERFORMED ANY ANALYSIS OR REVIEW TO DETERMINE AN APPROPRIATE AMORTIZATION PERIOD FOR DEMAND-SIDE RESOURCE COSTS?

A Yes. I have reviewed the expected lives of the various demand-side measures that AmerenUE includes in its programs. I also have reviewed AmerenUE's calculation of costs and benefits associated with demand-side resources to determine the time horizon over which it assumes benefits would be created.

Q WHY IS THE TIME PERIOD OVER WHICH AMERENUE ASSUMED THAT BENEFITS WOULD BE REALIZED RELEVANT TO THIS ISSUE?

A Fundamentally, when AmerenUE evaluates demand-side resources, it performs economic tests that compare the costs associated with the demand-side resources with the benefits in terms of the costs avoided as a result of their installation. If, after appropriate adjustments for all relevant factors, the benefits exceed the costs, then AmerenUE could include the measure or program in its portfolio.

Cost recovery would be distorted if AmerenUE used a shorter time for the recovery of the costs than for the counting of benefits. As an example, assume that the measure life is ten years, but that costs are recovered in three years. This means that customers on the system during the first three years would pay all of the costs, while 70% of the benefit would go to customers on the system during the subsequent seven years. To the extent that these are not the same customers, there is a large inequity introduced into the rate.

Q WHAT WERE THE RESULTS OF YOUR ANALYSES?

A My review of the life of the various measures was taken from AmerenUE's response to MIEC Data Request No. 2-7. For the most part, the expected lives are greater than ten years. The table below shows the distribution of measure lives.

Base Equipment Life		
# Years	Count	Average
<=5	116	2
6-10	187	10
11-15	450	13
16-20	199	18
>20	2	28
Total	954	12

A simple average of the measure lives is 12 years. The period of time over which benefits were assumed to accrue was derived from information included in AmerenUE's most recent integrated resource plan (IRP) analyses.

Q WHAT WERE THE RESULTS OF YOUR REVIEW OF THE TIME PERIODS OVER WHICH AMERENUE ASSUMED THAT BENEFITS WOULD ACCRUE IN CALCULATING THE BENEFITS/COST RATIOS ASSOCIATED WITH ITS DEMAND-SIDE PROGRAMS?

A My review revealed that AmerenUE used the lives referenced in my previous answer to calculate the benefit/cost ratios.

Q ON PAGE 15 OF HIS TESTIMONY, MR. KIDWELL ASSERTS THAT A TEN-YEAR AMORTIZATION PERIOD IS "…DETRIMENTAL TO THE CASH FLOW OF THE UTILITY." DO YOU AGREE?

A No. Mr. Kidwell obviously is comparing an amortization with a treatment under which the cost would be expensed and recovered more or less at the time the expenditure is made. This is not the appropriate comparison. It is not reasonable to ask for treatment comparable to that which is accorded supply-side resources when it comes to earning a rate of return, yet also want to achieve a quick cost recovery by means of expensing or a very short amortization period that has no relationship to the period of time over which benefits are expected to accrue, and upon which basis the program was justified.

Q HOW DOES THE CASH FLOW WITH A TEN-YEAR AMORTIZATION COMPARE TO THE CASH FLOW WITH A SUPPLY-SIDE RESOURCE?

A Since most supply-side resources are depreciated over a period of 40 years or longer, amortization over a ten-year period obviously provides more cash flow to the utility than does investment in supply-side resources. For example, with a supply-side resource that is depreciated over a 40-year life, the return of capital during the first five years would be equal to 5 ÷ 40, or 12.5%, while the return of capital during the first five years of a ten-year amortization would be 5 ÷ 10, or 50%.

Thus, investment of the same dollars would provide return of capital four times faster with a ten-year amortization of a regulatory asset than would be the case with a 40-year depreciable life for a supply-side resource. If anything, the amortization provides superior cost recovery in terms of cash flow for the utility than does depreciation of the typical supply-side asset. That, coupled with the opportunity to earn the same rate of return on the demand-side resources, clearly provides fair treatment for the utility.

Q HAS MR. KIDWELL MADE A SPECIFIC PROPOSAL FOR COST RECOVERY?

A Yes. This appears on page 17 of his testimony. Here, he proposes to include in rate base the amount of the regulatory asset as of February 28, 2010, plus the "…average of incremental budgeted amounts for 2010 and 2011." He proposes to use a "tracker" mechanism to track the difference between the amount in rates and the amount actually spent, and at the Company's next rate case, recover or refund any amounts in the tracker through a three-year amortization.

Q WHAT IS YOUR POSITION ON THIS PROPOSAL?

A I do not support it. First, I am advised that reaching forward to include in rate base budgeted amounts for expenditures in 2010 and 2011 that obviously have not been made, and obviously which have not created a useful asset, may not be legally permissible.

That aside, Mr. Kidwell does not explain how the balance would be amortized, or what rate of return would be applicable. He wants to include the costs in "base rates" but does not say whether the unamortized balance is in rate base, or is treated as an expense. From the context of his explanation, I infer that the amounts would be in rate base and would be amortized over some period of time, but his proposal is not clear. MIEC's request for an elaboration by means of an example or illustration (MIEC Data Request No. 2-6 dated September 19, 2009) yielded the response "AmerenUE has not prepared an example or illustration as described in the question." Given the lack of clarity of the explanation of the proposal, and the failure to provide a meaningful response to inquiries designed to obtain an explanation, the Commission should not give any consideration to this proposal.

Q ARE YOU FAMILIAR WITH SB 376, CODIFIED AS 393.1124 RSMo, REFERENCED BY MR. KIDWELL AT PAGE 13 OF HIS TESTIMONY?

A Yes, I am.

Q ARE THERE OTHER PROVISIONS OF SB 376, OTHER THAN WHAT HAS BEEN REFERENCED BY MR. KIDWELL, THAT DEAL WITH COST RECOVERY FOR DEMAND-SIDE RESOURCES?

A Yes, there are many. Among them, however, is the following provision in 393.1124.4:

> "Recovery for such programs shall not be permitted unless the programs are approved by the commission, result in energy or demand savings and are beneficial to all customers in the customer class in which the programs are proposed, regardless of whether the programs are utilized by all customers."

Q HAS AMERENUE PROVIDED THE INFORMATION NECESSARY TO MAKE THIS DETERMINATION?

A No. It has not provided the information necessary to make such a determination. This is an additional reason why AmerenUE's concept should not be given further consideration.

Q ARE THERE OTHER PROVISIONS IN SB 376 THAT ADDRESS CUSTOMER PARTICIPATION IN DEMAND-SIDE MEASURES?

A Yes. There is a section of SB 376 generally referred to as the "opt-out" provision which allows certain customers not to participate in utility-offered demand-side measures. In particular, Section 393.1124.7 through Section 393.1124.10 state as follows:

> "7. Provided that the customer has notified the electric corporation that the customer elects not to participate in demand-side measures offered by an electrical corporation, none of the costs of demand-side measures of an electric corporation offered under this section or by any other authority, and no other charges implemented in accordance with this section, shall be assigned to any account of any customer, including its affiliates and subsidiaries, meeting one or more of the following criteria:
>
> (1) The customer has one or more accounts within the service territory of the electrical corporation that has a demand of five thousand kilowatts or more;
>
> (2) The customer operates an interstate pipeline pumping station, regardless of size; or
>
> (3) The customer has accounts within the service territory of the electrical corporation that have, in aggregate, a demand of

two thousand five hundred kilowatts or more, and the customer has a comprehensive demand-side or energy efficiency program and can demonstrate an achievement of savings at least equal to those expected from utility-provided programs.

8. Customers that have notified the electrical corporation that they do not wish to participate in demand-side programs under this section shall not subsequently be eligible to participate in demand-side programs except under guidelines established by the commission in rulemaking.

9. Customers who participate in demand-side programs initiated after August 1, 2009, shall be required to participate in program funding for a period of time to be established by the commission in rulemaking.

10. Customers electing not to participate in an electric corporation's demand-side programs under this section shall still be allowed to participate in interruptible or curtailable rate schedules or tariffs offered by the electric corporation."

As a part of this proceeding, it will be necessary to identify the dollar amounts associated with these programs and determine a credit (for each rate schedule under which eligible customers could be served) that would apply to customers who have elected to opt-out of utility offered programs

Proposed Environmental Cost Recovery Mechanism

Q ARE YOU FAMILIAR WITH THE TESTIMONY OFFERED BY MR. BIRK AND MR. WEISS CONCERNING THE PROPOSED ECRM?

A Yes, I am.

Q IS A UTILITY ENTITLED TO HAVE AN ECRM?

A No. It is my understanding that the Commission has the discretion to reject, modify or approve a proposed ECRM.

Q WHERE ARE THE RULES PERTAINING TO AN ECRM SET FORTH?

A There are two rules. The "Electric Utility Environmental Cost Recovery Mechanism" rules are set forth in 4 CSR 240-20.091, and the "Electric Utility Environmental Cost Recovery Mechanisms Filing and Submission Requirements" is set forth in 4 CSR 240-3.162.

Q DO THESE RULES SET FORTH CRITERIA WHICH, IF MET, REQUIRE THE COMMISSION TO APPROVE AN ECRM?

A No. It is my understanding that there are no specified conditions under which the Commission must approve an ECRM.

Q DO THE RULES PROVIDE GUIDANCE CONCERNING FACTORS THAT THE COMMISSION MAY TAKE INTO ACCOUNT?

A Yes. 4 CSR 240-20.091 (2) states, among other things:

> "The commission shall consider all relevant factors that may affect the costs or overall rates and charges of the petitioning electric utility."
>
> In addition, 4 CSR 240-20.091 (2) (B), (C), and (D), states the following:
>
> "(B) The commission may take into account any change in business risk to the utility resulting from establishment, continuation, or modification of the ECRM in setting the electric utility's allowed return in any rate proceeding, in addition to any other changes in business risk experienced by the electric utility.
>
> (C) In determining which environmental cost components to include in an ECRM, the commission will consider, but is not limited to only considering, the magnitude of the costs, the ability of the utility to manage the costs, the incentive provided to the utility as a result of the inclusion or exclusion of the cost, and the extent to which the cost is related to environmental compliance.
>
> (D) The commission may, in its discretion, determine what portion of prudently incurred environmental costs may be recovered in an ECRM and what portion shall be recovered in base rates."

And importantly, pursuant to 4 CSR 240-20.091 (2) (A):

> "(A) The commission may approve the establishment, continuation, or modification of an ECRM and rate schedules implementing an ECRM provided that it finds that the ECRM it approves is reasonably designed to provide the electric utility with a sufficient opportunity to earn a fair return on equity."

Q AS A GENERAL REGULATORY PROPOSITION, DO YOU SUPPORT THE USE OF RIDER MECHANISMS?

A As a general proposition, I do not. Riders are effectively "single issue" rate-making which allows for adjustments in rates to take place outside the context of normal regulatory proceedings where all relevant factors affecting the revenue requirement can be analyzed on a consistent basis.

In my view, riders should be limited to cost items which are large in magnitude, difficult to predict, and which are volatile.

Q WHY SHOULD RIDERS BE AVOIDED?

A Riders are an exception to the normal test year rate-making process, and exceptions should be granted only where necessary in order to preserve the integrity of the basic rate-making process.

Establishing rates in an evidentiary proceeding, using a test year with known and measurable changes, allows for all claimed cost items to be tested for reasonableness, and also allows for a synchronized consideration of all relevant factors.

Q PLEASE EXPLAIN WHAT YOU MEAN BY A SYNCHRONIZED CONSIDERATION OF ALL RELEVANT FACTORS.

A A utility's revenue requirement contains a number of components. The components include revenues from sales, O&M expenses, depreciation expense, property tax, payroll tax, income tax and various other taxes. In addition, there is a return on the utility's rate base. The rate base consists of a number of components including plant in service reduced by the accumulated reserve for depreciation, and also reduced by accumulated deferred income taxes. Materials and supplies, working capital and other minor items also are usually included.

In the context of a rate case, parties have the ability to verify the accuracy and reasonableness of all of these components. The test year process in the regulatory context also allows for the synchronization of the revenues, expenses and investment.

For example, if new distribution plant is added to serve new customers, the revenues and expenses associated with those customers can also be included in a consideration of the determination of rates.

Q AFTER RATES ARE SET IN A RATE PROCEEDING, WHAT HAPPENS?

A After the rates are set and go into effect, the utility proceeds to manage its business. It experiences changes in various elements of its revenue requirement, including revenues, expenses and net investment. It may also experience changes in cost of capital as a result of financings, retirements, redemptions, etc. of securities, as well as changes in its capital structure. When the sum total of all of those changes gets to the point where, or the utility believes it will soon get to the point where, the overall return earned from charging these rates would be insufficient, the utility then files a request for a rate adjustment in a rate case. Then, the process starts again, and the rates are reset after a comprehensive examination of all of the relevant components of the revenue requirement equation.

Q ON PAGE 5 OF HIS TESTIMONY, MR. BIRK STATES THAT INVESTMENTS IN ENVIRONMENTAL CAPITAL EQUIPMENT DO NOT PRODUCE REVENUES OR REDUCE EXPENSES. IS THAT THE ONLY FACTOR WHICH DETERMINES HOW A UTILITY'S EARNINGS COULD BE IMPACTED BY ENVIRONMENTAL CAPITAL ADDITIONS OR EXPENDITURES?

A No. There are many other offsetting factors which countervail these types of increases. For example, AmerenUE's Missouri jurisdictional depreciation expense exceeds $300 million. This means that, every year, there is an increase in the accumulated reserve for depreciation which is subtracted from plant in service to determine net investment, and therefore rate base. This annual depreciation expense and resulting increase in accumulated reserve for depreciation provides coverage or room for that much in capital additions before the rate base increases.

In addition, the adoption of new technologies and improved work practices can have the effect of reducing O&M expenses, thereby countervailing increases in O&M expenses in other areas. In a similar fashion, general work force reductions and restructuring can have beneficial effects by reducing O&M expenses in other areas.

And, of course, the utility may experience growth in sales and thereby have additional cash flow and net bottom-line income as a result of these increases.

In summary, there are many factors in the revenue requirement equation that may change favorably after rates are in place. These changes may or may not offset all cost increases in other areas but they certainly have a countervailing tendency in that regard. When "single issue" ratemaking is practiced, these favorable effects are not captured and that heightens the possibility that the utility may over-earn.

Q IS AMERENUE INCURRING SIGNIFICANT O&M EXPENSES ASSOCIATED WITH ENVIRONMENTAL COMPLIANCE?

A No. Mr. Weiss's Schedule GSW-E21 shows total O&M expenses of only $4.1 million, which is offset partly by approximately $900,000 from the sale of emission allowances.

Q HAVE YOU EXAMINED AMERENUE'S CURRENT PROJECTION OF ENVIRONMENTAL COMPLIANCE-RELATED O&M EXPENSES?

A Yes. A summary is contained in Schedule MCB-E3. **********************************
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Q HAVE YOU ALSO EXAMINED AMERENUE'S ESTIMATES OF ENVIRONMENTAL COMPLIANCE-RELATED CAPITAL COSTS?

A This appears in the same document. ***
****
****
*********************** I would not characterize these investment levels as extraordinary. They are relatively small compared to AmerenUE's overall operations.

Q BASED ON AN EXAMINATION OF THESE PROJECTIONS, WHAT IS YOUR CONCLUSION CONCERNING THE NEED FOR AN ECRM?

A I do not believe that the level and pattern of these expenses justify approval of an ECRM for AmerenUE. Except as noted below, the cost levels (both O&M and capital) are relatively modest for the next several years. Although O&M expenses are projected to increase thereafter, these increases are based on speculation about compliance with environmental regulations that have not yet been adopted.

Q HAVE YOU REVIEWED THE LEVEL OF CAPITAL COSTS EXPECTED FOR INSTALLING THE SCRUBBERS AT SIOUX?

A Yes. Certainly, the level of capital cost expected to be incurred here is significant. Given the current expected in service dates of these scrubbers (and assuming that the dates do not slip), combined with AmerenUE's decision on the timing of the filing of this current rate case, it is possible that the scrubbers will go into service prior to the time that a new rate case to reflect the cost of these units could be processed.

Q DO YOU BELIEVE THIS TIMING FACTOR JUSTIFIES ADOPTION OF AN ECRM?

A No, I do not. This is a large capital addition, but its timing is imminent and should be dealt with in a different way. It should not be used to justify the adoption of an ECRM when there are better alternative approaches available.

Q WHAT ALTERNATIVE APPROACH WOULD YOU SUGGEST?

A One alternative would be to allow AmerenUE to continue to accrue the equivalent of AFUDC on the capital investment, along with possibly depreciation expense, until such time as a rate case can be filed and processed with final rates that reflect the inclusion of these costs. This would largely take care of AmerenUE's earnings concern, and would be a more direct way of dealing with the Sioux scrubbers.

In my opinion, there is no other near-term reason for adopting an ECRM, and there are many reasons why an ECRM should not be adopted.

Q RECOGNIZING THAT YOU DO NOT SUPPORT AN ECRM, HAVE YOU EXAMINED THE CALCULATION OF BASE REVENUE REQUIREMENTS PERFORMED BY MR. WEISS, AND REVIEWED THE PROPOSED TARIFF?

A Yes.

Q DO YOU HAVE ANY COMMENTS WITH RESPECT TO THE ELEMENTS INCLUDED IN THE DETERMINATION OF ENVIRONMENTAL-RELATED REVENUE REQUIREMENTS?

A Yes. Mr. Weiss has failed to subtract accumulated deferred income taxes associated with his identified environmental assets from rate base. The failure to make this subtraction overstates the attributed revenue requirement.

Given that Mr. Weiss has not reflected accumulated deferred income taxes as an offset in his base rate revenue requirement calculation, and given that the tariff is not explicit, it must be assumed that AmerenUE does not propose to recognize the beneficial effect of accelerated depreciation and therefore the accumulated deferred income taxes that would be an offset against rate base. If, despite my recommendations to the contrary, the Commission should adopt an ECRM, it should explicitly provide that accumulated deferred income taxes shall be taken as an offset to rate base.

Q IN ITS PROPOSED ECRM, DOES AMERENUE PROPOSE TO PASS THROUGH TO CUSTOMERS 100% OF ANY CHANGES IN COSTS THAT ARE ELIGIBLE TO BE INCLUDED IN THE ECRM?

A Yes, it does.

Q IF THE COMMISSION APPROVES AN ECRM, IS A 100% PASS THROUGH APPROPRIATE?

A No. For the same reasons that the Commission has ruled that a 100% pass through of changes in revenue requirements is not appropriate in the fuel adjustment clause, a 100% pass through of changes resulting from an ECRM also is not appropriate.

Q WHAT IS YOUR RECOMMENDATION IN THIS REGARD IF THE COMMISSION DETERMINES TO IMPLEMENT AN ECRM AT THIS TIME?

A My recommendation is that the sharing percentage in the ECRM with respect to increases or decreases in eligible costs be the same as in the fuel adjustment clause.

ECRM Rate Recovery Mechanism is Flawed

Q IF, CONTRARY TO YOUR RECOMMENDATION, THE COMMISSION ULTIMATELY DECIDES TO PERMIT SOME FORM OF ECRM TO BE IMPLEMENTED, IS THE RATE RECOVERY MECHANISM INCLUDED IN AMERENUE'S PROPOSED ECRM APPROPRIATE?

A No, it is not. The proposed recovery mechanism is stated on a per kWh basis. This is not an appropriate way to collect these costs.

Q PLEASE EXPLAIN.

A Looking first at the costs included in base rates as calculated by Mr. Weiss and shown on Schedule GSW-E21, essentially all of the identified costs are costs that are allocated to customers on a demand basis, rather than on an energy basis. For example, just the return, income taxes and depreciation associated with this plant accounts for 94% of the total identified environmental revenue requirement in current rates.

Q ARE MOST OF THE COSTS WHICH MR. BIRK EXPECTS TO BE INCURRED IN THE NEXT SEVERAL YEARS (SCHEDULE MCB-E3) FIXED COSTS?

A Yes, they are. At least through 2013, the preponderance of the costs which Mr. Birk estimates will be incurred are fixed in nature. Using the analysis described above in connection with Mr. Weiss's schedule, over 95% of the costs identified by Mr. Birk would fall into the fixed cost category and would be treated as a fixed cost in any class cost analysis.

Q WHAT WOULD BE THE APPROPRIATE COLLECTION METHODOLOGY IF THE COMMISSION DOES APPROVE AN ECRM?

A If the Commission does approve an ECRM, the more appropriate way to collect increases in costs would be to apply a percentage to customer class base rate revenues.

Q PLEASE EXPLAIN THE DISTORTION THAT OCCURS WHEN FIXED COSTS ARE COLLECTED ON AN ENERGY BASIS.

A Because of the difference in service characteristics and load shapes across customer classes, customers taking service at the primary voltage level require less in the way of delivery facilities, impose lower losses, and generally have higher load factors than do customers taking service at the secondary voltage level. Similarly, customers taking service at the transmission voltage level are less costly to serve than customers taking service at the primary voltage level, for the same reasons. As a result of these differences in service characteristics and load characteristics, both primary voltage level customers and transmission level customers have a higher responsibility for costs that vary on a kWh basis, such as fuel, as compared to secondary customers. Thus, when fixed costs are allocated on a kWh basis, they are overcharged.

Q HAVE YOU DEVELOPED A SPECIFIC MECHANISM?

A Not at this time. I will include the appropriate analysis and recommendations for a rate design in my direct testimony which address cost of service and rate design issues.

Q IF IN THE FUTURE, A MATERIAL PORTION OF THE EXPENSES BEING TRACKED ARE VARIABLE IN NATURE, COULD THE COMMISSION MODIFY THE ADJUSTMENT MECHANISM IN A FUTURE CASE?

A Yes. If in the future a substantial part of the costs being tracked is in the nature of variable costs, rather than fixed costs, the Commission could establish a two-part collection mechanism in a future case. The two-part mechanism would separate the fixed and variable costs and collect changes in fixed costs as a percentage of base revenues, and collect changes in the variable costs on a per kWh basis; both voltage level loss-adjusted.

Q DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

A Yes, it does.

Appendix A

Qualifications of Maurice Brubaker

Q PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A Maurice Brubaker. My business address is 16690 Swingley Ridge Road, Suite 140, Chesterfield, MO 63017.

Q PLEASE STATE YOUR OCCUPATION.

A I am a consultant in the field of public utility regulation and President of the firm of Brubaker & Associates, Inc. (BAI), energy, economic and regulatory consultants.

Q PLEASE SUMMARIZE YOUR EDUCATIONAL BACKGROUND AND EXPERIENCE.

A I was graduated from the University of Missouri in 1965, with a Bachelor's Degree in Electrical Engineering. Subsequent to graduation I was employed by the Utilities Section of the Engineering and Technology Division of Esso Research and Engineering Corporation of Morristown, New Jersey, a subsidiary of Standard Oil of New Jersey.

In the Fall of 1965, I enrolled in the Graduate School of Business at Washington University in St. Louis, Missouri. I was graduated in June of 1967 with the Degree of Master of Business Administration. My major field was finance.

From March of 1966 until March of 1970, I was employed by Emerson Electric Company in St. Louis. During this time I pursued the Degree of Master of Science in Engineering at Washington University, which I received in June, 1970.

In March of 1970, I joined the firm of Drazen Associates, Inc., of St. Louis, Missouri. Since that time I have been engaged in the preparation of numerous studies relating to electric, gas, and water utilities. These studies have included analyses of the cost to serve various types of customers, the design of rates for utility services, cost forecasts, cogeneration rates and determinations of rate base and operating income. I have also addressed utility resource planning principles and plans, reviewed capacity additions to determine whether or not they were used and useful, addressed demand-side management issues independently and as part of least cost planning, and have reviewed utility determinations of the need for capacity additions and/or purchased power to determine the consistency of such plans with least cost planning principles. I have also testified about the prudency of the actions undertaken by utilities to meet the needs of their customers in the wholesale power markets and have recommended disallowances of costs where such actions were deemed imprudent.

I have testified before the Federal Energy Regulatory Commission (FERC), various courts and legislatures, and the state regulatory commissions of Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Guam, Hawaii, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Missouri, Nevada, New Jersey, New Mexico, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Utah, Virginia, West Virginia, Wisconsin and Wyoming.

The firm of Drazen-Brubaker & Associates, Inc. was incorporated in 1972 and assumed the utility rate and economic consulting activities of Drazen Associates, Inc., founded in 1937. In April, 1995 the firm of Brubaker & Associates, Inc. was formed. It includes most of the former DBA principals and staff. Our staff includes consultants with backgrounds in accounting, engineering, economics, mathematics, computer science and business.

Brubaker & Associates, Inc. and its predecessor firm has participated in over 700 major utility rate and other cases and statewide generic investigations before utility regulatory commissions in 40 states, involving electric, gas, water, and steam rates and other issues. Cases in which the firm has been involved have included more than 80 of the 100 largest electric utilities and over 30 gas distribution companies and pipelines.

An increasing portion of the firm's activities is concentrated in the areas of competitive procurement. While the firm has always assisted its clients in negotiating contracts for utility services in the regulated environment, increasingly there are opportunities for certain customers to acquire power on a competitive basis from a supplier other than its traditional electric utility. The firm assists clients in identifying and evaluating purchased power options, conducts RFPs and negotiates with suppliers for the acquisition and delivery of supplies. We have prepared option studies and/or conducted RFPs for competitive acquisition of power supply for industrial and other end-use customers throughout the Unites States and in Canada, involving total needs in excess of 3,000 megawatts. The firm is also an associate member of the Electric Reliability Council of Texas and a licensed electricity aggregator in the State of Texas.

In addition to our main office in St. Louis, the firm has branch offices in Phoenix, Arizona and Corpus Christi, Texas.

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AmerenUE
Case No. ER-2010-0036

MIEC's Adjustment to AmerenUE's
Proposed Revenue Requirement - Total Company[1]

Line	Category of Adjustment	Amount of Reduction ($000)
1	Cost of Equity	$ 71,300
2	Depreciation Expense	$ 81,400
3	Incentive Compensation	$ 14,200
4	Production O&M Expense	$ 27,800
5	Distribution O&M Expense	$ 6,900
6	Reduced Employment Levels	$ 7,000
7	Executive Salaries	$ 1,800
8	Vegetation Management, Storm Costs, Infrastructure Inspection and Repairs	$ 16,200
9	Cash Working Capital	$ 1,200
10	Total Non-Fuel	$ 227,800
11	Net Fuel Costs	$ 48,600
12	Total Reduction	$ 276,400

[1]The Missouri jurisdictional share is approximately 95%.