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**MISSOURI PUBLIC SERVICE COMMISSION**

**FILE NO. ER-2014-0258**

**SURREBUTTAL TESTIMONY**

**OF**

**MICHAEL MOEHN**

**ON**

**BEHALF OF**

**UNION ELECTRIC COMPANY  
d/b/a Ameren Missouri**

**St. Louis, Missouri  
February 2015**



1 but also to ensure that the Company does not over-recover these potentially large and  
2 unpredictable costs, and (e) allowing amortization of \$35 million of fixed costs allocated  
3 to Noranda Aluminum, Inc.'s ("Noranda") rate class which the Company was unable to  
4 recover as a result of the devastating ice storm in Southeast Missouri, and that have been  
5 deferred through a Missouri Public Service Commission ("Commission")-authorized  
6 Accounting Authority Order ("AAO"). Finally, I will address the option that Ameren  
7 Missouri has offered to provide significant rate relief to Noranda through a wholesale  
8 contract at market-based power rates.

9 **Q. Why does Ameren Missouri need the proposed rate increase?**

10 A. As I explained in my direct testimony, the need for the proposed rate  
11 increase is driven by several major factors: a significant increase in net energy costs;  
12 depreciation of and return on major investments made in the Company's infrastructure  
13 that were needed to continue to provide safe and reliable service; an increase in  
14 depreciation expense driven by increased investments and partially by the decision to  
15 retire the Meramec Energy Center (the Company's oldest coal-fired plant); increases in  
16 taxes and the amortization of solar rebates Ameren Missouri was required to pay by law  
17 and the amortization of which was agreed to by a broad group of stakeholders. It is  
18 important to recognize that this proposed rate increase is not being driven by operations  
19 and maintenance ("O&M") expense increases. In fact, O&M costs, which are controlled  
20 most directly, have decreased by approximately \$67 million since the last rate case, as  
21 reflected in the direct case. My understanding is that even larger O&M reductions have  
22 occurred through the end of the true-up period in this case, and will therefore be reflected  
23 in the final revenue requirement.

1           **Q.     Have any of the drivers of the rate increase significantly changed**  
2 **since Ameren Missouri filed its rate case?**

3           A.     Yes.   Since the initial filing, a federal tax law allowing accelerated  
4 depreciation was passed in December of 2014.   The law increases the Company's  
5 accumulated deferred income taxes ("ADIT") and will significantly reduce the cost of the  
6 rate base additions in this case, since ADIT is an offset to rate base.   Specifically, it will  
7 reduce Ameren Missouri's rate base by over \$200 million.   This reduction will be  
8 reflected in the true-up filing for this case and will reduce the amount of the rate increase  
9 the Company initially requested.

10          **Q.     As others have pointed out, in addition to this proposed rate increase,**  
11 **Ameren Missouri has had five rate increases since 2007.  Have customers gotten any**  
12 **benefit from these rate increases?**

13          A.     Yes, they have.   Ameren Missouri has made significant investments in its  
14 system in the past decade to improve reliability, replace aging infrastructure and meet the  
15 requirements of environmental regulations.   Just since the last rate case in 2012, Ameren  
16 Missouri has invested approximately \$1.4 billion in its generating, transmission and  
17 distribution infrastructure.   Reliability has improved by approximately 44% since 2006,  
18 and the Company is now in the top 25% of all electric utilities in terms of reliability.  
19 This is an important and measurable benefit to customers.   Ameren Missouri is also  
20 undertaking the necessary task of replacing aging infrastructure to ensure that reliability  
21 will be solid over the long term.   Although the Company believes that regulatory reforms  
22 are needed to allow it to complete this task, these investments are being ramped up.

1 Again, these investments are providing benefits to customers now and they will continue  
2 to do so in the future.

3 Ameren Missouri has also been focused on complying with ever-more-stringent  
4 federal environmental regulations and state laws which impose requirements around  
5 environmental compliance and renewable generation. Moreover, energy efficiency  
6 programs have reduced energy consumption significantly, and directly reduced the bills  
7 of those customers who participate in the programs. Even more importantly, the energy  
8 efficiency programs reduce the need for future generation investments that benefit all  
9 customers. And, of course, compliance with federal environmental regulations and  
10 investments in renewables reduce emissions to the benefit of customers and the general  
11 public.

12 However, these investments require Ameren Missouri to seek rate increases, like  
13 other electric utilities that are making similar investments. The Commission has  
14 recognized the importance of these investments and has consistently approved rate  
15 increases designed to allow the Company to recover its prudent costs of making them.

16 **Q. Are you concerned about the financial impact of this rate increase on**  
17 **customers?**

18 A. Yes, I am. I attended some of the local public hearings that the  
19 Commission held in this case, and I received detailed reports of all of the other hearings  
20 from members of my staff who attended. I am also in the process of reading the  
21 transcripts of the hearings that I was unable to attend. I understand that rate increases are  
22 never easy for customers to bear, particularly low-income customers and those on fixed  
23 incomes. In an effort to mitigate the impact of rate increases on customers, the Company

1 has made every effort to control the costs which can be controlled, and as I previously  
2 stated, O&M expenses have been reduced by more than \$67 million since the last rate  
3 case. But, in the current environment, rate increases are necessary if the Company is to  
4 pay its fuel costs, comply with environmental and other laws and invest in infrastructure  
5 to preserve reliability. Ameren Missouri also believes that it is critical to continue to  
6 provide customers with incentives to participate in energy efficiency programs.

7 **Q. How do Ameren Missouri's rates compare to those of other integrated**  
8 **electric utilities?**

9 A. Ameren Missouri's rates are approximately 24% below the national  
10 average, 17% below the Midwest average, and lowest among the investor-owned utilities  
11 in the state.

12 **Q. Does Ameren Missouri sponsor any programs to help the most**  
13 **vulnerable customer cope with rate increases?**

14 A. Yes. The Company sponsors a number of programs including Dollar  
15 More, Keeping Current, Low-Income Weatherization, annual air conditioner giveaways  
16 and the annual energy assistance fair with Heat Up/Cool Down St. Louis, all of which are  
17 designed to reach the most vulnerable customers. Ameren Missouri is also a generous  
18 supporter of charities in its service territory including the United Way, the Salvation  
19 Army and many others. These programs, along with government funding from LIHEAP,  
20 help the most vulnerable customers cope with necessary rate increases.

21 **Q. You previously noted that it is important for the Commission to retain**  
22 **the Company's FAC in its current form. Can you explain why that is so important?**

1           A.     Yes. The Office of the Public Counsel (“OPC”) has proposed that the  
2 FAC be completely eliminated, or at a minimum significantly changed. OPC witness  
3 Lena Mantle addresses this proposal in her direct testimony. In my view, this is an  
4 irresponsible proposal that should be rejected. The FAC was initially authorized by the  
5 Missouri General Assembly in 2005 and it was initially approved by the Commission for  
6 Ameren Missouri in early 2009. The purpose of the FAC was to allow electric utilities to  
7 recover changes in prudently-incurred net energy costs which are significant, volatile and  
8 almost completely outside the ability of utilities to control. Since it was designed as a  
9 two-way cost tracking mechanism, its purpose was also to ensure that customers neither  
10 over-paid nor under-paid for these costs. Ameren Missouri’s FAC has worked exactly as  
11 the legislature and the Commission intended. It has ensured that the Company recovers  
12 its changes in its prudently-incurred net energy costs, not a penny more or less (aside  
13 from the 5% sharing that the Commission built into the mechanism). Nothing material  
14 has changed since the legislature and the Commission approved this mechanism.  
15 Ameren Missouri’s net energy costs are still significant, volatile and largely beyond its  
16 ability to control. The Company still requires an FAC, particularly since virtually all  
17 other electric utilities in the country utilize similar mechanisms. If Ameren Missouri’s  
18 FAC was discontinued, it would send a very negative message to investors as well as  
19 credit ratings agencies, as explained in detail in the rebuttal testimony of Company  
20 witness Gary Rygh, an investment banker with considerable experience evaluating  
21 utilities. The Commission has made progress in improving the regulatory framework in  
22 Missouri. We should not take a step back by changing this incredibly important  
23 mechanism.

1           **Q.     The OPC has recommended that if the FAC is retained, the sharing**  
2 **mechanism should be changed to 90/10%, and along with the Missouri Industrial**  
3 **Energy Consumers ("MIEC"), has recommended that certain transmission charges**  
4 **should be excluded. Would these changes be acceptable to the Company?**

5           A.     Absolutely not. My understanding is that most FACs have no sharing  
6 mechanism at all. The existing 5% sharing mechanism has resulted in Ameren Missouri  
7 absorbing millions of dollars of prudently-incurred fuel costs. Raising the sharing  
8 percentage to 10% would only exacerbate that issue. Moreover, in situations where net  
9 energy costs decrease (for example if and when power prices increase and thus increase  
10 off-system sales, or if volumes of fuel burned go down, or if fuel prices decrease)  
11 customers will lose an additional 5% of this benefit. There is no indication that even a  
12 5% sharing mechanism is needed to properly manage net energy costs, and there is  
13 certainly no justification for increasing that percentage. Ameren Missouri witnesses  
14 Lynn Barnes and Gary Rygh discuss these issues in their rebuttal testimonies in more  
15 detail.

16           Excluding transmission charges from the FAC is equally troubling. As the  
17 Commission recognized in the last rate case, Ameren Missouri is required to pay these  
18 transmission charges because it must incur them as part of its participation in MISO.  
19 MISO provides a stable market for Ameren Missouri to purchase and sell power, which is  
20 a major factor that reduces its over-all net energy costs, as the Commission has  
21 recognized in authorizing Ameren Missouri's continuing membership in MISO.  
22 Excluding these charges from the FAC is completely inappropriate.



1           More fundamentally, it is not a good policy to materially change the FAC in every  
2 rate case. Regulatory stability is important to utilities, their customers and investors.  
3 Unless there is a very good reason to change this mechanism, the Commission should not  
4 tinker with it. In this case, no good reason has been presented.

5           **Q. You previously stated that it is important for the Commission to**  
6 **authorize an ROE for Ameren Missouri commensurate with ROEs authorized for**  
7 **utilities that have similar risk. Can you elaborate on this point?**

8           A. Yes. First of all, I should acknowledge that I am not a cost of capital  
9 expert, and I realize that the ROE experts in this case have conducted complex analyses  
10 to help the Commission determine the cost of equity for Ameren Missouri. But, because  
11 the results of these analyses depend on the subjective inputs of the ROE experts, there is  
12 a range of study results available to the Commission in this case. My point with regard to  
13 this issue is that the Commission should set an ROE that is commensurate with ROEs  
14 being authorized for other similar utilities facing comparable risks. If the Commission  
15 does not adhere to this standard, Ameren Missouri's ability to attract capital at a  
16 reasonable cost will be compromised. Although reported, authorized ROEs from around  
17 the country provide a starting point for addressing this issue, I would note that the  
18 regulatory framework in Missouri does not provide mechanisms to address regulatory lag  
19 that are found in many other jurisdictions—mechanisms such as formula rates, a future  
20 test year, interim rates absent an extreme emergency, construction work-in-progress  
21 (“CWIP”) in rate base, etc. As a consequence, Ameren Missouri has greater risks that it  
22 will under-recover its costs due to regulatory lag, and that risk must be taken into account  
23 in determining the authorized return on equity. In addition, the Commission should also

1 ensure that the ROE selected is providing the right incentive to encourage future  
2 investment, as the Company's infrastructure ages.

3 **Q. Consumers Council of Missouri ("CCM") witness James Dittmer**  
4 **provided rebuttal testimony recommending that the amortization of solar rebates**  
5 **which was previously approved by the Commission be discontinued due to earnings**  
6 **reported by Ameren Missouri in recent surveillance reports. This recommendation**  
7 **is also supported by MIEC despite the fact that MIEC signed a stipulation**  
8 **providing for a three-year amortization of these costs. How do you respond?**

9 A. Elimination of a Commission-approved amortization on this basis would  
10 be a very poor policy decision for several reasons. First, as the Commission recently  
11 recognized, unadjusted surveillance reports from particular historical periods do not  
12 provide any basis to set rates. For the same reasons, they provide no basis to cancel  
13 recovery of solar rebates that the law required the Company to pay, and that the  
14 Commission contemplated would be recovered when it approved the 2013 Stipulation  
15 and Agreement, creating a pool of solar rebates available to customers. Earnings  
16 increases or decreases can come as a result of many factors that occur during a particular  
17 historical period. For example, abnormally favorable weather can increase earnings in a  
18 particular period, but it will eventually be offset by abnormally unfavorable weather in  
19 another period. Not having a scheduled outage at the Callaway Nuclear Plant will  
20 favorably impact earnings in one period, but that will be off-set in another period when a  
21 scheduled outage does occur. Mr. Dittmer's proposal to eliminate a Commission-ordered  
22 amortization when unadjusted earnings are favorable disrupts this balance. It sets a

1 ceiling on favorable earnings in a given period, but provides no floor. For that reason  
2 alone it should be rejected.

3 In the case of the solar rebates, elimination of the amortization would be  
4 particularly egregious. Ameren Missouri was required by state law to pay solar rebates, it  
5 agreed to pay \$92 million of such rebates, on the condition that it could recover these  
6 costs through a specified amortization. This mechanism was agreed to by all parties to  
7 the solar rebate case and was codified by the Commission's order approving that  
8 agreement. The Company agreed to settle the solar rebate case and pay that amount of  
9 rebates only because the recovery of the rebates was assured. It is completely  
10 inappropriate to change the rules of the game now and require the Company to absorb  
11 those rebates. The consequence of such a decision would be to require Ameren Missouri  
12 to entirely write off the approximately \$101 million regulatory asset recorded in reliance  
13 on the Commission's authority to defer those solar rebates for later amortization, resulting  
14 in a \$101 million reduction in earnings in 2015.

15 Finally, and just as importantly, if Commission-ordered amortizations can be  
16 discontinued based on earnings reflected in selected historical surveillance reports, no  
17 Missouri utility will ever be able to rely on a Commission-ordered amortization again to  
18 book costs that are approved for amortization. At that point, the usefulness of  
19 amortizations, which the Commission and utilities have relied on for decades, will be  
20 gone. For this reason, it is my understanding that no other jurisdiction has made  
21 implementation of Commission-ordered amortizations subject to this type of earnings  
22 test. This Commission should not be the first to do so. Ameren Missouri witness John

1 Reed discusses the policy implications of taking such a drastic step in his rebuttal and  
2 surrebuttal testimonies.

3 **Q. In his rebuttal testimony, Staff witness Kofi Boateng has**  
4 **recommended discontinuance of Ameren Missouri’s two-way major storm cost**  
5 **tracker, as has MIEC witness Greg Meyer. Do you have a response to this**  
6 **recommendation?**

7 A. Ameren Missouri witness David Wakeman is providing a detailed  
8 response to this recommendation, but I am also responding because I believe that  
9 retaining this tracker is an important policy decision for the Commission to make. In  
10 approving this tracker in the last rate case, the Commission recognized that quickly  
11 restoring service after a major storm is one of the most important functions that the  
12 Company performs. Customers and their elected representatives have made it clear time  
13 and time again that utilities need to make every effort to quickly restore service in such  
14 situations. Major storms are unpredictable and completely outside the Company’s ability  
15 to control. Their impact can be devastating and the cost of quickly restoring service to  
16 customers is always quite significant.

17 It is far better to retain this tracker to ensure that customers pay no more or less  
18 than the amount that Ameren Missouri spends to restore service after a major storm than  
19 it would be to attempt to include a “normal” level of these wildly-variable expenses in  
20 rates. In the latter situation, every year customers would likely pay more or less than the  
21 costs the Company did incur, depending on the level of major storms that were  
22 experienced in the Company’s service territory. There is no reason to subject either the

1 Company or its customers to this uncertainty. Consequently the major storm cost tracker  
2 should be retained.

3 Mr. Boateng and Mr. Meyer argue that AAOs can be used to recover storm costs.  
4 However, the Commission rejected this argument in the last rate case where it recognized  
5 that a storm tracker is a more rational way to provide for storm cost recovery than a series  
6 of AAOs, subject of course to the Commission's ability to review the sums to be  
7 amortized for prudence.

8 **Q. In his rebuttal testimony, Staff witness John Cassidy opposes the**  
9 **amortization of approximately \$35 million in fixed costs that the Company was not**  
10 **able to recover and that were deferred through a Commission-approved AAO.**  
11 **What is your response?**

12 A. Ameren Missouri witness Barnes is providing a detailed response  
13 regarding this issue. But, I would note that this issue arose because Ameren Missouri  
14 suffered a severe and detrimental economic impact from a very extraordinary weather  
15 event in Southeast Missouri which had a very extraordinary impact on the Company's  
16 largest customer, Noranda. Ameren Missouri filed for an AAO promptly after this  
17 financial loss was reflected on its books, and this rate case is the first rate case since the  
18 Commission authorized the AAO.

19 From a policy standpoint, the Commission should grant recovery of the prudently-  
20 incurred sums authorized for deferral by the AAO. Utilities that face losses due to  
21 extraordinary circumstances such as this should not have to simply "eat" those losses but  
22 they should be afforded an opportunity to recover their prudently-incurred costs. This is  
23 exactly the type of circumstance that AAOs were designed to address.

1           **Q. In her rebuttal testimony, Staff witness Sarah Kliethermes addresses**  
2 **Noranda’s proposed rate design whereby it would pay a rate of \$32.50/MWh.**  
3 **Although she neither supports nor opposes Noranda’s proposed rate, she**  
4 **recommends that Noranda’s rate continue to be examined in every rate case, and**  
5 **that if the Commission were to be inclined to grant Noranda's request in some**  
6 **fashion or to some extent, that a Noranda-specific FAC be developed so that the risk**  
7 **of changes in the market price and transmission expense to serve Noranda is not**  
8 **passed to other customers. Do you have a response?**

9           A. Yes. I believe that if Noranda remains a retail customer, it should pay a  
10 rate that reflects its cost of service. Ameren Missouri witness Robert Mudge has filed  
11 testimony demonstrating that Noranda has no immediate need for any type of subsidized  
12 rate. In any event, it is not appropriate for the Commission to set a retail rate based  
13 simply on a customer’s private financial need, which will have to be subsidized by other  
14 customers. Such a subsidized rate would be inconsistent with the “regulatory compact,”  
15 it would arguably constitute undue discrimination, and it would create a slippery slope  
16 where other customers would seek rate subsidies based on private financial needs that are  
17 almost impossible for the Commission to verify or track on an on-going basis. If such a  
18 subsidy were warranted, it should be provided by the state legislature and paid for by all  
19 taxpayers in the state, not just Ameren Missouri customers. Ameren Missouri witnesses  
20 Reed and Bill Davis discuss why this adherence to the regulatory compact between  
21 utilities and its retail customers is critically important.

22           However, Ameren Missouri has proposed an option that could provide Noranda  
23 immediate rate relief consistent with legal constraints and good regulatory policy. The

1 obligation to provide retail service to Noranda under the existing certificate of  
2 convenience and necessity authorizing/requiring Ameren Missouri to provide retail  
3 service to Noranda could be canceled or suspended, and Noranda could take service as a  
4 wholesale customer pursuant to a market-priced contract. The market prices in the  
5 contract would be lower than Ameren Missouri's cost-based retail rates. But market-  
6 based prices would be considerably higher than the rates Noranda is recommending that  
7 it pay in this case, and higher than the rates reflected in the Non-Unanimous Stipulation  
8 and Agreement filed by several parties early in this case. As a consequence, a wholesale  
9 agreement would provide some level of relief to Noranda, but it would mitigate the  
10 impact of that relief on Ameren Missouri's other customers. A more complete  
11 explanation of this proposal is contained in the rebuttal testimony of Ameren Missouri  
12 witness Matt Michels.

13 **Q. Wouldn't such an arrangement have the same problems as providing**  
14 **a subsidized retail rate to Noranda?**

15 A. Not at all. Ameren Missouri regularly provides wholesale sales at market  
16 rates to counter-parties. This arrangement would not be different in substance from any  
17 other wholesale arrangement. There is no "regulatory compact" between Ameren  
18 Missouri and wholesale customers so that is not an issue. Ameren Missouri's obligation  
19 to serve wholesale customers is limited to the obligations set forth in the contract—there  
20 is no over-arching and continuing obligation to serve like there is with respect to a retail  
21 customer. There is also no "undue discrimination" issue with regard to wholesale  
22 customers. Ameren Missouri negotiates wholesale contracts with individual counter-  
23 parties based on market conditions. No wholesale customer is paying cost-based rates for

1 power, so there is no discrimination between similarly-situated customers. Finally, there  
2 is no risk that a “slippery slope” would be established whereby other customers would  
3 demand to exit retail service and enter into market-based wholesale contracts. Noranda is  
4 unique among Ameren Missouri’s customers both due to specific legislation providing it  
5 electricity supply options others do not have, and due to its size and load factor. Other  
6 customers in Ameren Missouri’s service territory are in a far different position and must  
7 take retail service from the Company and pay cost-based rates.

8 **Q. What would be necessary for Ameren Missouri to enter into such a**  
9 **wholesale arrangement with Noranda?**

10 A. First, Noranda and Ameren Missouri would need to agree to terms of  
11 service and prices for the wholesale contract. Secondly, the Commission would need to  
12 approve this arrangement, confirm that entering into the arrangement was a prudent  
13 decision for Ameren Missouri, and that the costs and revenues associated with this  
14 transaction will be reflected in the FAC, consistent with the treatment of costs and  
15 revenues for Ameren Missouri’s existing wholesale transactions. Third, there would be  
16 no continuing obligation on Ameren Missouri's part to serve Noranda under the existing  
17 certificate of convenience and necessity authorizing/requiring Ameren Missouri to  
18 provide retail service to Noranda. And fourth, the transaction would have to take effect  
19 on the effective date of rates set in this case, so that billing units could be adjusted to  
20 reflect Noranda’s wholesale service.

21 **Q. Is it practical to implement this proposal in this rate case?**

22 A. That depends on the reaction to the proposal of Noranda, other parties, and  
23 ultimately this Commission. If Noranda is truly in need of a lower electric rate,



1 continuing to propose an option that violates the regulatory compact is not productive.  
2 To find a solution that works, Noranda and other parties need to consider other options.  
3 In my opinion, this is the only way Noranda can or should be provided a rate that is  
4 materially below Ameren Missouri's cost of service.

5 **Q. Does this conclude your surrebuttal testimony?**

6 **A. Yes, it does.**

