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MISSOURI PUBLIC SERVICE COMMISSION

CASE NO. ER-2008-0318

SURREBUTTAL TESTIMONY

OF

MARTIN J. LYONS, JR.

ON

BEHALF OF

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

**St. Louis, Missouri
November, 2008**

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1 A. No. As explained in detail in Mr. Arora's testimony, we believe there are
2 serious flaws in Dr. Proctor's analysis. At bottom, we believe that a proper statistical
3 analysis would support the common sense conclusion, which seems obvious to me, that
4 AmerenUE's net fuel costs are volatile and unpredictable. As we have attempted to explain
5 throughout our testimony, even though we have substantially hedged our coal and nuclear
6 costs, we have significant exposure for the portion of coal, nuclear fuel and natural gas costs
7 that have not been hedged, and in some cases cannot be hedged. More importantly, when
8 off-system sales revenues are added to the mix (approximately two-thirds of which are not
9 typically hedged), AmerenUE's net fuel costs are extremely volatile and unpredictable. And
10 off-system sales revenues that fluctuate with the power markets cannot be counted on to
11 offset already known and locked-in coal cost increases.

12 **Q. What if, in spite of Mr. Arora's testimony, the Commission found that**
13 **Dr. Proctor's criticism of Mr. Arora's statistical analysis is valid?**

14 A. In my opinion, even if the Commission accepts Dr. Proctor's critique of
15 Mr. Arora's analysis, there is other evidence clearly documenting the significant net fuel cost
16 uncertainty and under-recovery AmerenUE has actually experienced in recent years.
17 Moreover, there are important policy considerations that also strongly warrant granting an
18 FAC to AmerenUE. Most significantly, completely aside from any volatility or uncertainty
19 analysis, AmerenUE continues to face fuel cost increases that, absent an FAC, will prevent it
20 from earning its authorized rate of return. To repeat: AmerenUE has been, and in the future
21 will be unable to recover its increasing fuel costs and earn its authorized rate of return
22 without an FAC. This consideration alone is sufficient to justify granting the proposed FAC.
23 In addition, as AmerenUE witnesses have testified at length, not having an FAC will put us at

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1 a significant disadvantage in competing for credit in markets where virtually every other
2 similar integrated utility has an FAC. AmerenUE needs large amounts of capital to maintain
3 and improve its system. Without an FAC this capital will at least be more costly and difficult
4 to procure. In a worst case, it may not be available at all. The bottom line is that even if
5 Dr. Proctor's analysis is accepted, these other considerations clearly show that permitting
6 AmerenUE to use an FAC is the right policy decision for AmerenUE and its customers.

7 **Q. Dr. Proctor and Staff witness Lena Mantle claim that nothing has really**
8 **changed since the Commission decided not to approve AmerenUE's FAC request in the**
9 **last rate case. From the Staff's perspective, this apparently suggests that the**
10 **Commission should mechanically make the same decision now. Mr. Kind essentially**
11 **argues the same thing in his rebuttal testimony. Are they right?**

12 A. No, they are not right. AmerenUE's FAC request in its last rate case was the
13 first FAC request by a Missouri electric utility since the late 1970s. AmerenUE's proposed
14 FAC in the last rate case differed significantly from the current proposal and had to be
15 modified several times as that last case progressed. Frankly, the Company had no experience
16 with structuring an FAC in accordance with the then newly-adopted FAC rules in Missouri.
17 Moreover, the Company did not do the job it should have done in focusing both its own
18 attention and the Commission's attention on the very real impact that net fuel cost
19 uncertainty and regulatory lag can have on the Company and customers if not tracked. The
20 bottom line is that the FAC proposed in this case is a different request, in a different case,
21 and at a different time. The record in this case contains far more extensive evidence
22 regarding the need for an FAC than that which was reflected in the record in the last case.
23 The fact that those who oppose the Company's FAC simply point to a different record for a

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1 different FAC in the last case is strongly suggestive of an effort on their part to divert the
2 Commission's focus away from the substantial and unambiguous record supporting the FAC
3 proposed in this case.

4 **Q. Please summarize some of the key evidence in this case that was either**
5 **not present in the last case, or that was not made very clear in the last case.**

6 A. First, both the Company and the Commission now have the benefit of the
7 Commission's consideration of three prior FAC requests. We know, for example, how the
8 Commission views S.B. 179's requirement that "a fuel adjustment clause must be reasonably
9 designed to provide the utility with a sufficient opportunity to earn a fair return on equity."
10 Specifically, the Commission has told us that:

11 The statute, while not providing specific guidance on when a fuel adjustment clause
12 should be approved, does provide some guidance on when such a clause is
13 appropriate. Specifically, it indicates any such fuel adjustment clause must be
14 reasonably designed to provide the utility with a sufficient opportunity to earn a fair
15 return on equity. There are circumstances when the use of a fuel adjustment clause
16 may be appropriate to preserve the financial health of the utility, and no one,
17 including ratepayers, benefits when a utility becomes financially unhealthy. In an era
18 where fuel costs are highly volatile, a fuel adjustment clause may be appropriate if the
19 company is to earn its authorized rate of return. The problem then is how to determine
20 when a fuel adjustment clause is appropriate.¹

21
22 There is substantial evidence in this case demonstrating that without an FAC,
23 AmerenUE's financial health indeed will likely be impaired. This evidence includes:

- 24 • The severe effect of regulatory lag on the Company's return on equity
25 (ROE) when it is forced to rely upon a series of time-consuming rate cases
26 is clear and unmistakable, even if one focuses only on delivered coal costs.
27 The Company lost \$42 million of higher coal costs in 2007, despite
28 implementing a rate increase in June 2007 – this effectively wiped out the
29 \$43 million annual rate increase that took effect in June 2007. This was
30 not offset by increases in off-system sales margins, which in 2007 ended
31 up \$12 million *below* the level built into the Company's new rates (\$218
32 million versus \$230 million). It was also not offset by other cost savings,

¹ Report and Order, Case No. EO-2008-0093, p. 35 (*Empire Order*).

1 as evidenced by the earned ROEs since June 2007 reflected in AmerenUE
2 witnesses Gary Weiss's and Thomas Voss's rebuttal testimonies.
3

- 4 • Based upon the Company's already *locked-in* coal cost increases which
5 took effect on January 1, 2008, the Company is again under-recovering,
6 along with other cost increases, coal cost increases which will eventually
7 lead to \$72 million of cumulative under-recovery. Given the uncertainty
8 in off-system sales, as discussed in AmerenUE witnesses Shawn
9 Schukar's and Mr. Arora's testimonies, the change in normalized off-
10 system sales margins cannot be expected to offset these cost increases.
11 Similar fuel cost under-recoveries are likely to occur prospectively even
12 with a series of repeated rate cases filed just one year apart. The foregoing
13 information is addressed in detail in AmerenUE witness Robert Neff's
14 rebuttal testimony, and summarized in my rebuttal testimony, in particular
15 at pages 9-14.
16
- 17 • The historical and projected uncertainty and volatility of AmerenUE's net
18 fuel costs (which can swing AmerenUE's earnings and cash flows up and
19 down) is clear and unmistakable, as shown by Mr. Arora in his direct,
20 rebuttal and surrebuttal testimonies. For example, as shown in Table
21 AKA-SR1 in Mr. Arora's surrebuttal testimony, over just the last year
22 AmerenUE's forecast for 2009 net fuel costs have changed by more than
23 \$130 million. Similarly, in just the eight months from April 2007 to
24 December 2007, AmerenUE's net fuel cost forecasts changed by over \$90
25 million. This uncertainty is also underscored by the drastic fall-off in
26 forward power prices for 2009 which we have seen over the past few
27 months, and the decline in actual market prices for power we have also
28 seen over the past few months as compared to recent years.
29
- 30 • The state of the credit markets, coupled with AmerenUE's increased need
31 for cash flows to allow it to continue to invest in its system, as its
32 customers have demanded, make an FAC even more critical for
33 AmerenUE. AmerenUE witnesses Michael O'Bryan and Gary Rygh
34 address these market realities in detail in their rebuttal testimonies.
35 Mr. Voss (in his direct and rebuttal testimonies) and AmerenUE witness
36 Kenneth Gordon (in his direct and surrebuttal testimonies) also address the
37 relationship of an FAC to the Company's cash flow needs and the general
38 effect of the rising cost environment in which the Company is operating.
39
- 40 • The sharing mechanism proposed in AmerenUE's FAC in this case is far
41 different than the sharing proposed in any version of AmerenUE's FAC
42 request in the last rate case. In fact, the proposed sharing mechanism in
43 this case is precisely the sharing mechanism this Commission adopted for
44 both Empire and Aquila. Today, 88 of 94 utilities in other non-restructured

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1 states have fuel adjustment clauses.² This includes 36 of 37 neighboring
2 and other non-restructured Midwestern states that have FACs, and 26 of
3 the 27 coal-intensive utilities in those same Midwestern states have FACs.
4 These trends are consistent with the Commission's own view that use of
5 FACs in Missouri has "merely transported Missouri back into the
6 mainstream of utility regulation."³
7

8 Related to the prior point is the fact that the Commission has already
9 recognized that the large majority of utilities operate under an FAC and the "mainstream of
10 regulation recognizes that it is impossible for a utility to earn its allowed return on equity in a
11 rising cost environment without a fuel adjustment clause."⁴ Thus, those who choose to focus
12 only on the Report and Order in the Company's last rate case (Case No. ER-2007-0002),
13 occurring at a different time under different circumstances, are essentially ignoring the
14 Commission's most recently expressed views relating to FACs.

15 **Q. Do you have any other comments about Staff's rebuttal testimony and**
16 **general opposition to an FAC for AmerenUE?**

17 A. Yes. Staff appears to focus on short-term considerations rather than long-term
18 policy. We have already seen how a string of rate cases simply fails to keep up with the
19 rising, locked-in fuel costs faced by AmerenUE. The Commission has already observed that
20 using FACs to manage cash flow and earnings swings due to net fuel cost changes, not
21 reliance on strung-together rate cases, is mainstream regulation. An FAC that includes off-
22 system sales and that fairly shares increases and decreases in net fuel costs is simply good
23 policy and consistent with electric and natural gas utility regulation throughout the country.

24 Contrary to Staff's position, I do not believe the Commission should make
25 FAC-related decisions based upon whether or when a utility may file another rate case. The

² Since my rebuttal testimony was filed three weeks ago, another electric utility's FAC request, Central Vermont Public Service, was approved.

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1 Commission itself agreed with this very point in the Empire case, finding that Empire’s past
2 experience showed that even if rates remain in effect (in that case) for less than two years,
3 history had shown that net fuel costs can swing greatly even in that relatively short time
4 frame. As I discussed in my rebuttal testimony, we do not know when AmerenUE will file
5 another rate case, but even if AmerenUE files another rate case in mid-2009 (meaning that
6 rates from this case would remain in effect for approximately 14 months), the combination of
7 regulatory lag and uncertainty in the spot markets would cause substantial swings in cash
8 flows and earnings, absent utilization of an FAC over this period of time. In my opinion, this
9 is no way to address AmerenUE’s significant cash flow needs or to provide AmerenUE a fair
10 opportunity to earn its allowed return. Meeting those cash flow needs and giving AmerenUE
11 that fair opportunity to earn its authorized return will, in turn, assist AmerenUE in making
12 the investments AmerenUE’s customers have demanded AmerenUE make. Not meeting
13 those needs and not giving AmerenUE that fair opportunity will undermine AmerenUE’s
14 ability to make those investments.

15 **Q. Do you have any comments on Dr. Proctor’s focus on “downside risk”?**

16 A. Yes. As I understand Dr. Proctor’s testimony, Staff wouldn’t support an FAC
17 unless the utility’s earnings would be hurt substantially without an FAC – i.e., unless the
18 utility faces “downside risk.” Viewed this way, the evidence in this case supports an FAC
19 in any event, given that no one knows for sure what AmerenUE’s net fuel costs will be.
20 What we do know is that AmerenUE has large, locked-in fuel cost increases in the coming
21 years. AmerenUE’s proposed FAC provides a measure of “downside” protection for the
22 Company and its earnings, if in fact net fuel costs rise over time, but it also fairly provides

³ *Empire Order*, p. 34.

1 exactly the same kind of “downside” protection for customers. If, as others seem to
2 sometimes assume, off-system sales did increase enough to offset some, all or more than all
3 of the fuel cost increases in any given period, customers would get almost all of the benefit
4 under AmerenUE’s proposed FAC. Why a fair mechanism like this should not be adopted is
5 something I simply do not understand. Lack of an FAC is harming AmerenUE’s financial
6 health. This is neither fair, nor wise, given AmerenUE’s financial and cash flow needs. As
7 the Commission indicated, “no one, including ratepayers, benefits when a utility becomes
8 financially unhealthy.”⁵

9 **III. MR. KIND’S MISCELLANEOUS POINTS**

10 **Q. Mr. Kind (for OPC) opposes the Company’s FAC request, but if the**
11 **Commission disagrees with Mr. Kind’s position, he has proposed a couple of**
12 **modifications to the Company’s proposal, including a 50%/50% sharing mechanism.**
13 **Did Mr. Kind provide any support for his proposal whatsoever?**

14 A. No. He simply stated that OPC “believes” only 50% of net fuel cost changes
15 should be passed through.

16 **Q. Please comment further on Mr. Kind’s sharing mechanism proposal.**

17 A. I already addressed the unreasonableness of Missouri Industrial Energy
18 Consumers (“MIEC”) witness Maurice Brubaker’s and State of Missouri witness Martin
19 Cohen’s 80%/20% sharing mechanism at pages 23 to 28 of my rebuttal testimony, and won’t
20 repeat that discussion here. I would note, however, that Mr. Kind’s proposal to my
21 knowledge would be unprecedented, and would hardly “transport ...Missouri back into the
22 mainstream of utility regulation.” As recognized by the Commission in the recent Empire

⁴ *Id.*

1 case, the vast majority of utilities with FACs do not share changes in the costs tracked
2 through an FAC at all.⁶

3 I have never heard of an FAC that operates with a 50% sharing mechanism like that
4 proposed by Mr. Kind, which appears clearly designed to continue significant under-
5 recoveries of increasing net fuel costs and, even if AmerenUE were to file full rate cases
6 every year, would be punitive to utility earnings. A 50% share may also be adverse to
7 ratepayer interests because if net fuel costs go down, customers would miss out on 50% of
8 the savings.

9 **Q. Does Mr. Kind's testimony provide any clues as to why he apparently**
10 **believes AmerenUE's share of net fuel cost changes should be 50%?**

11 A. Mr. Kind cites a letter to shareholders from former Ameren Corporation CEO
12 Chuck Mueller to explain his position.

13 **Q. Does Mr. Mueller's letter support Mr. Kind's position?**

14 A. No. Mr. Kind makes much of Mr. Mueller's 1998 letter, but makes no
15 mention of the fact that the electric utility industry and fuel and power markets have changed
16 much in the decade since it was written. He also makes no mention of the substantial
17 incentives the Company has to properly manage its net fuel costs, as I outlined at pages 20 to
18 23 of my rebuttal testimony.

19 **Q. You reference changes in the industry in the past decade. Please**
20 **elaborate.**

21 A. Among other things, certainly coal prices were far more stable 10 years ago
22 than they have been in recent years, utilities faced different transportation market conditions,

⁵ *Empire Order*, p. 35.

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1 and power was traded in a much different manner than today. As we've discussed in our
2 testimony in this case, the importance of FACs to credit quality was far different ten years
3 ago than it is today, particularly given the large capital needs the Company faces today.
4 Moreover, today we have extensive rules that require heat rate/efficiency testing and
5 reporting requirements and that require the Company to stand before the Commission no less
6 frequently than every four years to justify an FAC. Holding the Company responsible for
7 today's uncertainties in fuel and power markets over which the Company has no control will
8 provide no meaningful incremental incentives. Circumstances have changed, and it is
9 today's circumstances, not an out-of-context statement from a ten-year old letter, that the
10 Commission should consider in connection with the Company's FAC request.

11 **Q. Mr. Kind also takes issue with the Company's treatment of the Taum**
12 **Sauk plant in the proposed FAC. Is Mr. Kind's concern valid?**

13 A. No, I do not believe it is. As explained by Mr. Schukar in his surrebuttal
14 testimony, while Mr. Kind suggests the current Taum Sauk value the Company has built into
15 its normalized net fuel costs estimate could be too low, it could also be too high. The fact is
16 that no one can predict capacity and power prices and thus no one can predict the value of
17 Taum Sauk's generation with a high level of certainty. Having said that, as Mr. Schukar
18 points out, there is certainly evidence that suggests that it is just as likely the value could be
19 too high as opposed to being too low. Consider that current forward energy prices for 2009
20 have changed from the normalized energy price recommended by Mr. Schukar in his rebuttal
21 testimony and that the margin potential created by the spread between the lower cost off peak
22 power used to pump water up the mountain at night and the higher on peak power realized

⁶ *Empire Order*, p. 4.1.

1 when the Taum Sauk plant runs during the day has shrunk considerably. The economy has
2 also contracted significantly.

3 **Q. Will the assumed value of the Taum Sauk plant continue to be an issue**
4 **for an extended period of time?**

5 A. No. The Taum Sauk plant should be back in service by March 2010, just one
6 year after rates from this case will take effect. Under the proposed FAC tariff, once Taum
7 Sauk goes back into service, the FAC rates will no longer need to be adjusted for the
8 assumed value of Taum Sauk set in this rate case, meaning that this entire issue becomes
9 moot.

10 **Q. How do you recommend the Commission address this issue?**

11 A. I recommend the Commission utilize the value of Taum Sauk reflected in
12 AmerenUE witness Timothy Finnell's rebuttal testimony (\$25.8 million, comprised of \$20.9
13 million of energy benefits and \$4.9 million related to capacity). This value lowers the net
14 fuel costs upon which FAC adjustments are made by \$25.8 million, the estimated value of
15 Taum Sauk, in order to hold customers harmless from the plant's unavailability. Updating
16 this value is unnecessary and unwise given the potential controversy and administrative
17 difficulties that would probably exist in connection with each such update. To update the
18 energy value would require new market simulations based on updated assumptions about
19 loads, power prices, and generation availability, about which not everyone may agree. To
20 update the capacity value would require assumptions about demand for capacity and prices
21 for capacity, also about which not everyone may agree.

22 If the Commission were to decide that it is necessary to update the value of
23 Taum Sauk periodically going forward and reflect these updated values in the FAC rate, the

1 Company would of course do so. But I cannot recommend such a decision given the
2 significant administrative burden and likely controversial nature of such updates (identical to
3 calculating normalized net fuel costs in a rate case), and the fact that Taum Sauk will return
4 to operation a year after this rate case concludes.

5 **IV. FAC MODIFICATIONS - ACCUMULATION PERIODS**

6 **Q. Mr. Watkins reiterates Staff's position that AmerenUE should not be**
7 **allowed an FAC. However, in the event that the Commission grants the Company's**
8 **FAC request, he provides seven different recommendations regarding the operation**
9 **and structure of an FAC as well as other reporting requirements. Are any of**
10 **Mr. Watkins proposed modifications or reporting requirements relating to**
11 **AmerenUE's FAC reasonable?**

12 A. Yes. If the Commission decided to adopt them, five of Mr. Watkins'
13 proposed modifications or additional reporting requirements are reasonable. These are

14 (1) The use of seasonal net base fuel costs. This would result in higher baseline net
15 fuel costs for the summer months (June through September) than the non-summer
16 months (October through May) and, as a result, reduce potential over- or under-
17 recoveries during different times of the year;

18 (2) The synchronization of the rate adjustments resulting from the FAC with pre-
19 existing rate adjustments tied to the summer and non-summer periods. This would
20 result in fewer rate changes facing the customers each year;

21 (3) The alignment of FAC periods to billing months versus calendar months;

22 (4) The inclusion in the rate schedules of a sheet showing the calculations supporting
23 the fuel and purchase power rate (FPA) then in effect; and

1 (5) Providing more information to facilitate Staff's true-up audit and prudence
2 review.

3 **Q. Of Mr. Watkins' remaining recommendations, is there one in particular**
4 **that is of great concern?**

5 A. Yes. Mr. Watkins argues that the number of accumulation periods should be
6 reduced from three to two by lengthening the accumulation periods from four months to six
7 months. Although neither Mr. Watkins nor other Staff witnesses have addressed the length
8 of the recovery period in their direct or rebuttal testimony, it is possible that Mr. Watkins
9 would intend that these two six-month accumulation periods be coupled with 12-month
10 recovery periods. This combination would create unreasonably large deferrals (over- or
11 under-recoveries) that would create unreasonably large true-ups. This would also move
12 AmerenUE's FAC well out of the mainstream of currently operating mechanisms and reduce
13 the benefit to credit quality an FAC would provide for AmerenUE.

14 **Q. Please elaborate on the Company's concerns about combining two six-**
15 **month accumulation periods with 12-month recovery periods.**

16 A. Mr. Watkins' proposed two six-month accumulation periods (June through
17 November, and December through May), coupled with 12-month recovery periods and
18 further coupled with a four-month window between the end of the accumulation period and
19 the beginning of the recovery period, would imply deferrals for the accumulation period
20 beginning in June 2009 that would not be fully recovered until March 2011, *a full 22 months*
21 *later.*

22 This delayed recovery, combined with the Missouri regulatory policy of using
23 historical costs as the basis for the FAC rate would produce an FAC that is far outside of the

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1 mainstream. As I showed in Schedule MJL-E5 of my direct testimony, only 33 of the 85
2 utilities with FACs in effect at that time in other non-restructured states utilized historical
3 costs as the basis for their FAC rate, and 21 (nearly two-thirds) of those 33 utilities were
4 allowed to adjust rates monthly. Schedule MJL-E5 also shows that only six (less than 20%)
5 of those 33 utilities adjust rates less frequently than once every quarter. Only three
6 (including Empire and Aquila) adjust just twice per year. Thus, particularly where historical
7 costs must be used to make FAC adjustments, Staff's proposal to have just two adjustments
8 per year would result in a mechanism with a regulatory lag that far exceeds those approved
9 for a very large majority of utilities in non-restructured states.

10 **Q. You have addressed six of Mr. Watkins' seven proposed modifications or**
11 **reporting requirements above. Please address the last item, his recommendation that**
12 **all replacement power insurance premiums and recoveries be removed from the FAC**
13 **and that ash disposal revenues and costs also be removed from the FAC.**

14 A. The Company continues to believe these items should be included in the FAC.
15 We are giving customers the benefit of replacement power insurance recoveries and
16 customers would bear the costs of the premiums for that insurance. It makes sense to include
17 these items in the FAC because they are directly related to purchased power costs, which are
18 included. We are also fairly giving customers both ash disposal costs *and* revenues. The
19 quantity of ash generated is directly related to the amount of coal burned and these costs and
20 revenues are treated as fuel costs under applicable accounting rules. We thus believe we
21 have appropriately included them in the FAC.

1 **Q. Let’s turn back now to Mr. Watkins’ five recommendations that you**
2 **earlier indicated were reasonable. If the Commission decides to adopt those**
3 **recommendations, how should the Company’s FAC proposal be modified?**

4 A. While the Company does not believe any of these recommendations are
5 necessary, if the Commission decided to implement the five items proposed by the Staff that
6 I indicated earlier were reasonable,⁷ they should simply be added to AmerenUE’s proposed
7 FAC. However, it is important that they be applied to an FAC that is based on three four-
8 month accumulation periods, not two six-month accumulation periods, for the reasons I
9 outlined above. Specifically, large deferrals might be created by just two accumulation
10 periods with a 12-month recovery period, resulting in overly large true-ups, with interest,
11 either paid by the Company or charged to customers.

12 Attached Schedule MJL-SE10 is the same as Schedule MJL-E3 to my direct
13 testimony, except that it now shows when rate changes, including the non-FAC related
14 seasonal rate changes, would occur. We continue to believe that this is an appropriate FAC
15 design. Also attached is Schedule MJL-SE11, which shows how AmerenUE’s proposed
16 FAC could be modified to incorporate Mr. Watkins’ timing-related modifications to
17 implement seasonally-differentiated net base fuel costs and align FAC-related rate changes
18 with seasonal rates (June through September versus October through May). It also shows the
19 timing of accumulation and recovery periods, which would mean that two of the three rate
20 changes under the FAC would coincide with the existing seasonal rate changes, as Staff
21 suggests. However, to prevent the increasing deferrals I discussed earlier, the FAC would

⁷ I listed five items total, but two of them are simply to provide further information in the rate schedules or to provide more information to the Staff and do not involve modification of the FAC mechanism itself.

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1 continue to use three four-month accumulation periods. This means the accumulation
2 periods would cover June through September, October through January, and February
3 through May. There would be three rate adjustments per year (two FAC-related adjustments
4 that coincide with the pre-existing seasonal changes and one FAC change unrelated to
5 seasonal changes). This addresses Mr. Watkins' initial criticism that the FAC proposal
6 would have resulted in customers facing five rate changes per year (two due to the normal
7 seasonal changes in rates and three more related to FAC adjustments). While we do not
8 believe five adjustments are unreasonable, particularly given that many jurisdictions adjust
9 rates on a monthly basis, certainly three rate changes (just one more than already occurs due
10 to seasonal rate adjustments) is reasonable.

11 Note, however, that using a seasonal differentiation with the three
12 accumulation periods would not change the true-up year. This is the case because Missouri
13 FAC rules require a true-up year that begins on the first day of the month after the rate case
14 order approving the FAC (or the first day of the month if the rate case order approving the
15 FAC is issued on the first day). Since the operation of law date for AmerenUE's rate case is
16 March 1, 2009, the true-up year will likely start on March 1, 2009 and end on February 28,
17 2010. The March 1 start date for the FAC also means that the initial accumulation period
18 will only be three months long (March through May 2009). This design would ensure that
19 customers would only face one FAC-related rate change (in February) in addition to the
20 normal seasonal rate changes that occur in June and October.

21 **Q. If for some reason the Commission strongly preferred two six-month**
22 **accumulation periods, is there an important factor you believe the Commission must**
23 **consider?**

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1 A. Yes. As I discussed earlier, if for some reason the Commission decided to
2 adopt two six-month accumulation periods as proposed by Mr. Watkins, then it is essential to
3 also adopt shorter recovery periods (e.g., six months) to reduce regulatory lag, just as the
4 Commission has done in its recent approval of Empire's FAC. I refer to this option as an
5 “Empire-style” FAC proposal.

6 **Q. How would an Empire-style FAC with two six-month accumulation**
7 **periods and two six-month recovery periods be structured to make at least one of the**
8 **FAC-related rate changes coincide with seasonal rate changes so that customers are not**
9 **faced with more than three rate changes each year?**

10 A. Schedule MJL-SE12 illustrates an Empire-style FAC mechanism with six-
11 month accumulation and recovery periods in the same format as presented in Schedules
12 MJL-SE10 and MJL-SE11, above. There would be two accumulation periods (March
13 through August and September through February). And, just like the mechanism currently
14 used by Empire, the length of time between the end of the accumulation period and the
15 beginning of the recovery period would be shortened from four to three months, with the
16 actual filing occurring just one month after the end of the accumulation period. The
17 subsequent recovery periods would be six months in length. As this illustration shows,
18 customers would only face one FAC-related rate change (in December) that would not be
19 coincident with the normal seasonal rate changes that occur in June and October.

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

21 A. Yes, it does.

Illustration of AmerenUE's Proposed FAC

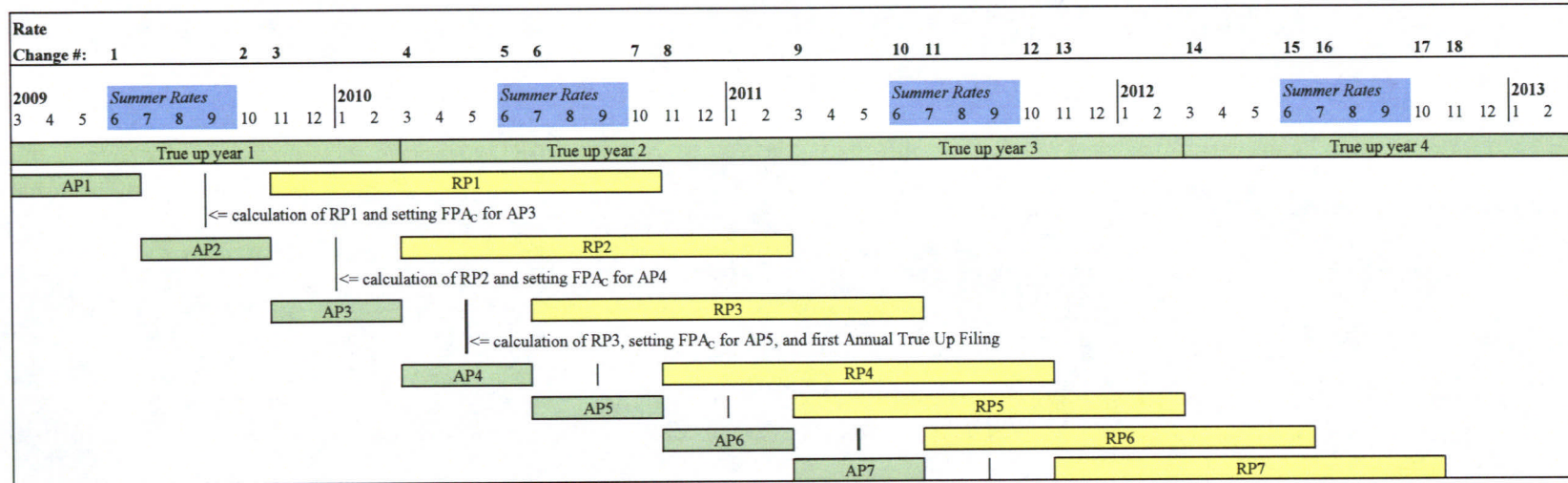


Illustration of AmerenUE's Proposed FAC with Seasonal NBFC and Rate Changes

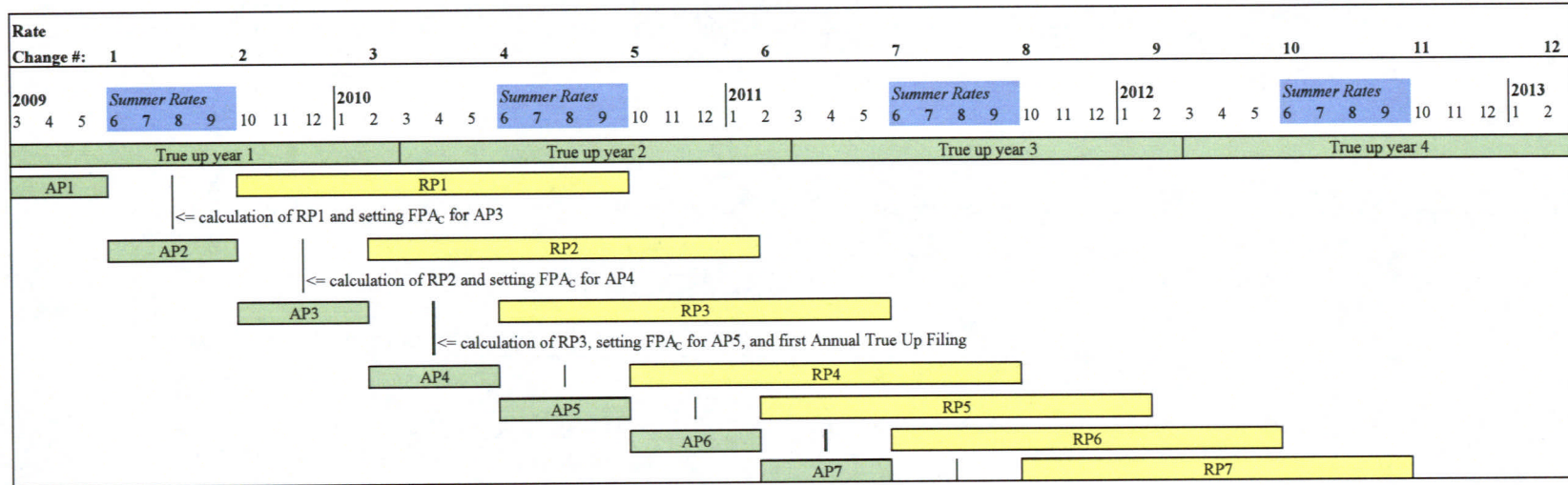


Illustration of Empire-Style FAC with 6 Month Accumulation and Recovery Periods

