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**MISSOURI PUBLIC SERVICE COMMISSION**

**FILE NO. ER-2022-0337**

**SURREBUTTAL TESTIMONY**

**OF**

**KARL R. MOOR**

**ON**

**BEHALF OF**

**UNION ELECTRIC COMPANY**

**d/b/a AMEREN MISSOURI**

**St. Louis, Missouri  
March 2023**

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**SURREBUTTAL TESTIMONY**

**OF**

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**I. INTRODUCTION**

1

2 **Q. Please state your name.**

3 A. Karl R. Moor.

4 **Q. Are you the same Karl R. Moor who previously provided**  
5 **testimony in this case?**

6 A. Yes.

7 **Q. What is the purpose of your surrebuttal testimony?**

8 A. The purpose of my surrebuttal testimony is to respond to the rebuttal  
9 testimony of Staff witnesses Claire Eubanks and Keith Majors.

10 **Q. Do Ms. Eubanks and Mr. Majors accurately characterize your**  
11 **opinions in this matter?**

12 A. No. I did not and do not offer any opinion on whether Ameren  
13 Missouri violated the Clean Air Act's New Source Review ("NSR") provisions.  
14 That has already been established by the District Court, and is not at issue in this  
15 proceeding. Instead, the question I address is whether it was reasonable at the time  
16 in question (2005-2010) for Ameren Missouri to believe that its Rush Island projects  
17 would not trigger NSR. As I stated in my direct testimony, Ameren Missouri  
18 reasonably believed that it was applying the NSR rules to the projects it undertook

1 at Rush Island. The decisions to proceed with the Rush Island projects were based  
2 upon the understanding that they did not trigger NSR, and in my experience that  
3 understanding was consistent across the industry. For example, the decisions that  
4 Mr. Birk made, as senior production officer for Ameren Missouri, were consistent  
5 with those of the four chief operating production officers in Mississippi, Alabama,  
6 Georgia, and Florida and Southern's overall President of Generation, with whom I  
7 worked.

8 **Q. Are there distinct legal and factual circumstances that existed for**  
9 **Ameren Missouri that make your conclusion that Ameren Missouri acted**  
10 **reasonably even stronger?**

11 A. Absolutely. Legally, Ameren Missouri had the benefit of the Missouri  
12 SIP, the text of which required that a project first increase potential emissions before  
13 any construction permit (including PSD permit) would be required. And as a factual  
14 matter, the Missouri Department of Natural Resources (MDNR) had specifically  
15 applied that language in the Missouri SIP to determine that comparable boiler  
16 component replacement projects undertaken by units in Missouri did not require any  
17 preconstruction permitting. Given my experience as Senior Vice President and  
18 Chief Environmental Counsel to Southern Company, it would have been  
19 unreasonable to abandon this state law and accept without question or challenge  
20 EPA's newly devised enforcement theories.

21 **Q. Do the District Court litigation and the resulting opinions, cited**  
22 **by Ms. Eubanks and Mr. Majors, support your conclusions?**

1           A.     Yes, in several respects.     First, the history of that litigation  
2 demonstrates that Ameren Missouri had a solid case for believing what it did.  When  
3 EPA filed suit in January 2011, it did not even include the 2007 and 2010 projects  
4 in its Complaint, despite the fact that EPA had investigated the plant for the prior  
5 three years.  Instead, EPA filed suit on other projects (performed at Rush Island in  
6 2001 and 2003) which EPA later dropped.  EPA did not add the 2007 and 2010  
7 projects to the litigation until June 2011.  Then, after extensive discovery, EPA  
8 moved for summary judgment, asking the District Court to find that the Unit 2  
9 projects in 2010 constituted a major modification.  The District Court denied that  
10 motion in 2016, finding that a trial was necessary because the facts were in dispute.  
11 United States v. Ameren Missouri, No. 4:11-cv-00077-RWS (E.D. Mo.)<sup>1</sup>, ECF No.  
12 724 at 16 (“I cannot say that no reasonable factfinder could find for Ameren”).  
13 EPA’s re-shuffling of its claims, and the District Court’s conclusion at summary  
14 judgment that reasonable minds could differ concerning Ameren Missouri’s liability  
15 under the Clean Air Act, underscore that Ameren Missouri had solid grounds for  
16 believing as it did.

17           Second, after the full liability trial, the District Court made several important  
18 factual findings that support the prudence of Ameren Missouri’s decisions.  The  
19 first such finding was that Ameren Missouri evaluated the Rush Island projects for  
20 NSR applicability before undertaking them.  229 F. Supp. 3d at 926 (FOF 385).

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<sup>1</sup> Unless otherwise noted, all references to deposition, exhibits and declarations herein refer to materials produced in the Ameren Missouri litigation in the U.S. District Court for the Eastern District of Missouri. United States v. Ameren Missouri, No. 4:11-cv-00077 (E.D. Mo.).

1 Ameren Missouri did not ignore NSR requirements. Second, that evaluation  
2 included a consideration of whether the projects would cause an emissions increase.  
3 *Id.* at 926-27 (FOF 391, 395).<sup>2</sup> Third, Ameren Missouri did not believe that a  
4 component replacement project would cause an annual emissions increase if the unit  
5 was capable of generating the higher level of emissions before the project. *Id.* at  
6 978, 981 (FOF 403, 423, 426). Finally, the District Court found that Ameren  
7 Missouri’s compliance process was based upon “a fundamental misunderstanding  
8 of the PSD program,” in that it did not reflect the Court’s understanding of the  
9 program in 2017. *Id.* at 1010. Nowhere did the District Court find that Ameren  
10 Missouri failed to act in good faith in its attempts to comply with the law as it  
11 understood that law at the time, or in asserting its right to contest EPA’s claims  
12 based upon positions that had been accepted by other courts.

13 **Q. Does the District Court’s determination at the liability trial that**  
14 **Ameren Missouri had “a fundamental misunderstanding of the PSD program”**  
15 **mean that Ameren Missouri was imprudent?**

16 A. No. The District Court’s rejection of Ameren Missouri’s  
17 understanding of the law does not mean that Ameren Missouri was unreasonable in  
18 its position on what the law was at the time it made its decisions. After all, in other  
19 cases, that very same understanding of the NSR program that Ameren Missouri

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<sup>2</sup> Although the District Court did not address Ameren Missouri’s pre-project evaluation that found the Rush Island projects excluded from permitting requirements as routine maintenance, repair or replacement (“RMRR”), the testimony cited by Ms. Eubanks and the District Court made it clear that Ameren Missouri in fact made such a determination. Eubanks Rebuttal Test. at 12 (citing Birk Dep. at 220, lines 14-21).

1 shared with industry was upheld by both district courts and circuit courts across the  
2 country. Those cases supported Ameren Missouri's pre-project permitting  
3 decisions.

4 **II. COMMENTS ON STAFF'S METHODOLOGY**

5 **Q. How would you characterize the approach that Staff takes in**  
6 **criticizing your testimony and that of Mr. Holmstead and Mr. Birk?**

7 A. The testimony that both Ms. Eubanks and Mr. Majors provide,  
8 asserting that Ameren Missouri was imprudent to make the decisions it did, is  
9 legally flawed and factually incorrect. First, Staff stray from the relevant standard:  
10 the reasonableness of Ameren Missouri's permitting decision must be based upon  
11 the facts available to Ameren Missouri at the time, without reliance on hindsight.  
12 *Associated Nat. Gas Co. v. Pub. Serv. Comm'n of Missouri*, 954 S.W.2d 520, 529  
13 (Mo. App. W.D. 1997). The Staff testimony does not provide any facts from which  
14 one could conclude that a reasonable person would have acted differently at the time  
15 in question (2005-2010). My testimony demonstrates that reasonable and  
16 responsible decisionmakers similarly situated to Ameren Missouri made the same  
17 decisions that Mr. Birk made, and that those types of decisions were upheld by other  
18 courts in the relevant time period.

19 **Q. Can you provide other examples of legal flaws in the Staff's**  
20 **approach?**

21 A. Yes. The Staff argues that the District Court's decision that the Rush  
22 Island projects triggered NSR pre-determines that Ameren Missouri was imprudent

1 for defending its position that it had not triggered NSR. To make this claim, Staff  
2 seizes upon the word “reasonable” in the District Court’s opinion and asserts that  
3 the court’s finding determines for this Commission that Ameren Missouri was  
4 imprudent in litigating on behalf of its customers and its environmental and utility  
5 regulators. But that is not the case. The District Court found that Ameren Missouri  
6 has “a fundamental misunderstanding of the PSD program” and accordingly its  
7 “method of assessing PSD does not comply with the rules, EPA’s instructions or the  
8 case law.” 229 F. Supp. 3d at 1010, 1011. Because Ameren Missouri’s NSR  
9 analysis did not comply with the District Court’s view of the applicable NSR  
10 requirements, that analysis “therefore was not reasonable under the law.” *Id.* at  
11 1012. This does not resolve the question of whether Ameren Missouri’s  
12 *understanding* of the law was reasonable at the time that it made the pre-project  
13 decisions on NSR applicability. That is the key question I addressed in my direct  
14 testimony, and it is in no way rebutted.

15 **Q. What would the Staff have to show in order to prove to the**  
16 **Commission that Ameren Missouri was imprudent in its decision-making**  
17 **between 2005 and 2010?**

18 A. As noted, Ameren Missouri had three independent questions it asked  
19 to determine whether a project required a PSD permit in Missouri: 1) would the  
20 project increase potential annual emissions; 2) would the project increase actual  
21 annual emissions; and 3) was the project excluded from NSR permitting as routine?  
22 Ameren Missouri’s leaders, relying on the best judgment of an experienced staff,



1 and counsel concluded that under any one of these three independent inquiries, no  
2 permit was required under the state SIP. To show that Ameren Missouri's decision  
3 to proceed without seeking a state permit was imprudent, Staff must demonstrate  
4 that *each and every one* of these decisions was unreasonable based on the facts  
5 known to the company at the time it made its decisions. But the Staff does not  
6 evaluate any of the facts on which the company based its decisions at the time.

7 **III. COMMENTS ON STAFF ERRORS**

8 **Q. In addition to your views about the flawed approach Staff take in**  
9 **its approach to prudence, are there specific factual errors Staff makes?**

10 A. Yes. I have noted three major flaws in Staff's attempt to demonstrate  
11 imprudence. First, I disagree with the Staff that Ameren Missouri's awareness of  
12 the enforcement initiative meant that Ameren Missouri was imprudent for not  
13 seeking permits for its projects. Staff wants to rely upon the mere existence of the  
14 enforcement initiative, whereas Ameren Missouri and other utilities at the time were  
15 looking at the results of these cases when EPA's claims were put to the test in court.  
16 Second, I disagree with the idea that an EPA NOV establishes an NSR violation that  
17 no reasonable utility could or should contest. Neither EPA nor utilities treat NOV's  
18 as establishing legal requirements. Finally, I disagree with the assertion that  
19 Ameren Missouri could not rely on MDNR's interpretation of the Missouri SIP.  
20 The fact that MDNR read the Missouri SIP in precisely the same manner as Ameren  
21 Missouri demonstrates that Ameren Missouri acted prudently.

1                                   **1.     Staff’s Flawed “Notice” Argument.**

2                   **Q.     Let’s take these one by one. Is Staff correct that knowledge of**  
3 **the enforcement initiative meant that Ameren Missouri was imprudent for**  
4 **not seeking permits for its projects?**

5           A.     No. In the relevant timeframe (2005-2010), our industry certainly had  
6 an understanding of the NSR enforcement initiative, EPA’s litigation theories, and  
7 the methodologies that EPA’s hired expert witnesses were employing to claim near-  
8 universal non-compliance. But the Commission should also understand that the  
9 Koppe-Sahu emissions methodology used in all these cases was not a product of a  
10 notice-and-comment rulemaking—it was devised for litigation by EPA. Moreover,  
11 the Koppe-Sahu formula can only show an increase in emissions—it cannot predict  
12 a decrease—because it excludes from consideration all other factors that go into  
13 dispatch of a unit, which is contrary to the plain language of the NSR regulations.  
14 40 C.F.R. § 52.21(b)(41)(ii) (requiring operator to consider “all relevant  
15 information” in making its emissions projections). For these reasons, the testimony  
16 of Koppe and Sahu was challenged in every case brought against a defendant  
17 utility.<sup>3</sup> And in the 2005 to 2010 time period, the utilities were winning as many  
18 cases as they were losing.

19           Although Ameren Missouri was aware of the NSR enforcement initiative and  
20 EPA’s use of the Koppe-Sahu formula within it, that body of law as a whole cannot

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<sup>3</sup> The District Court’s liability opinion supports the conclusion that it was reasonable for utilities, including Ameren Missouri, to challenge the Koppe-Sahu methodology. 229 F. Supp. 3d at 1014 (noting that after-the-fact emissions calculations performed for the purpose of litigation may lack credibility).

1 show that Ameren Missouri’s decisions were unreasonable or imprudent. This is  
2 uniquely true because none of those cases involved the Missouri SIP or a similar  
3 requirement in state law that limits PSD permitting to the modification causing an  
4 increase in potential emissions. The Missouri SIP put Ameren Missouri in a  
5 stronger legal position than most other utilities in the enforcement initiative.

6 **2. Staff’s Mistake in Equating NOV’s with Federal Law**

7 **Q. Can you explain why Staff’s use of EPA NOV’s is wrong?**

8 A. Staff apparently believes that when a utility received a notice of  
9 violation pursuant to the NSR enforcement initiative, it had to comply with it and  
10 no other course of action could be prudent. But a notice of violation does not have  
11 the weight of law. It is simply an allegation, as courts have recognized. *See e.g.,*  
12 *Luminant Generation Co. v. EPA*, 757 F.3d 439, 442-43 (5th Cir. 2014) (noting the  
13 “intermediate, inconclusive” nature of an EPA NOV, that “no legal consequences  
14 flow from the issuance of [a] notice,” and that “it makes no sense to say that an  
15 entity must comply with a notice”). If the Commission were to disregard the law  
16 and give a NOV the weight Staff does, it would set a dangerous precedent: we  
17 would all lose the right of due process to challenge federal interpretations of  
18 established law. Staff’s approach also would make every EPA-issued NOV a blank  
19 check that this Commission must honor. Mr. Majors implies that this approach is  
20 currently the Commission’s default approach, asserting the Commission has been  
21 supportive of any of “these large expenditures to comply with environmental law  
22 and regulations.” (Majors Rebuttal Test. at 20.) But NOV’s are not “law and

1 regulations,” they are the assertions of an advocate in contested matters. One should  
2 keep in mind that at the time Ameren Missouri undertook its projects, other courts  
3 had rejected allegations of violations and found that the same types of projects did  
4 not trigger NSR.

5 **Q. Does it make any difference that Ameren Missouri received an**  
6 **NOV while the Unit 2 outage was in progress?**

7 A. No, for three reasons. First, EPA issued the NOV after the Unit 2  
8 project started. But Ameren Missouri was required to, and did, make its compliance  
9 determinations pre-project. Because the NOV was not available at that time, it is  
10 not relevant to whether the pre-project decisions were reasonable.<sup>4</sup> The District  
11 Court confirms this fact in finding that pre-project analyses are the ones that matter.  
12 229 F.3d at 1014 (rejecting “afterthought analyses”). Second, the January 2010  
13 NOV cited by Ms. Eubanks did not allege any violation in the ongoing outage at  
14 Unit 2. In fact, EPA kept changing the alleged violations over the course of the  
15 litigation, adding new ones and dropping others. This inconsistency reinforces the  
16 fact that no particular weight should be placed on any allegations made in an NOV.  
17 Third, many utilities have successfully contested EPA’s NOVs, and as a result  
18 EPA’s allegations have frequently failed to result in the imposition of any additional

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<sup>4</sup> The same is true for the emission calculations by Michael Hutcheson, which Ms. Eubanks criticizes. The Hutcheson calculations were not part of the pre-project evaluations Ameren Missouri performed to decide whether permitting requirements applied. 229 F. Supp. 3d at 978 (FOF 398). Rather, they were done later at the request of the legal department. *Id.* (FOF 399). Given the context of EPA’s ongoing investigation of Ameren Missouri, it was reasonable for the Ameren Missouri legal department to have requested an evaluation of certain projects from EPA’s perspective.

1 controls. This is illustrated in Schedule KRM-s1 (attached), which summarizes the  
2 NOVs issued by EPA to electric utilities for alleged NSR violations prior to January  
3 1, 2010, and the results of any resolution of those claims within that period. Of the  
4 39 companies receiving an NOV for an alleged NSR violation between November  
5 3, 1999 and January 1, 2010, only a third of them (13) had settled with EPA—and  
6 most of these settlements were only partial, leaving some NOV allegations against  
7 the settling company unresolved. Schedule KRM-s1. Of the over 260 units alleged  
8 to have triggered NSR in the pre-2010 NOVs, only 65 such units (i.e., 25%) had  
9 their NSR claims settled by the start of 2010. Id.

10 For all these reasons, the fact that EPA issued an NOV after the relevant time  
11 period, in which Ameren Missouri made the necessary decisions, is irrelevant in  
12 determining the reasonableness of the company's permitting decisions.

13 **Q. Mr. Majors cites the Westar Energy response to an EPA NOV**  
14 **and subsequent litigation, and suggests that Ameren Missouri should have**  
15 **followed suit. How do you respond?**

16 A. This is wrong. First, Westar Energy announced this settlement after  
17 Ameren Missouri started the Unit 2 outage in 2010. It was not part of the landscape  
18 when Ameren Missouri made its permitting decisions. Here again, Staff uses  
19 hindsight rather than the facts available at the time to judge the reasonableness of  
20 Ameren Missouri's decisions. Second, and more fundamentally, Mr. Majors  
21 incorrectly assumes that the proper and prudent thing to do in every instance is to

1 settle and meet an EPA demand early, so as to gain some savings benefit.<sup>5</sup> The  
2 history of EPA's enforcement initiative provides many counter-examples.  
3 Moreover, because state law can and does vary under approved SIPs, comparing the  
4 decision that Westar Energy made in Kansas with the decisions made by Ameren  
5 Missouri under the Missouri SIP is meaningless.

6 **3. Staff's Disregard of MDNR and the Missouri SIP**

7 **Q. Let's move to your third point. Ms. Eubanks suggests that the**  
8 **interpretation and application of state agencies such as MDNR is irrelevant.**  
9 **How do you respond?**

10 A. The Staff's dismissiveness toward MDNR and the state SIP is  
11 disturbing. Ameren Missouri was not wrong to believe in and rely upon the  
12 importance of the state SIP, even after the launch of the NSR enforcement  
13 initiative. The Missouri SIP was and remains the source of authority over a state's  
14 utilities, and all other industries. Even EPA, in its NOV's to Ameren Missouri,  
15 relied upon the state SIP as stating the rule of law applicable to Ameren Missouri.  
16 As demonstrated in my direct testimony, MDNR's interpretation of the SIP was  
17 consistent with Ameren Missouri's understanding of the law in Missouri. Staff  
18 does nothing to undermine this central point. If Ameren Missouri and MDNR had  
19 the same understanding, and Ms. Moore's testimony makes clear that they did,  
20 then Ameren Missouri's understanding cannot be unreasonable.

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<sup>5</sup> Although Mr. Majors speculates that there might have been some benefit to customers had Ameren Missouri settled the claims asserted by EPA in 2010 (Majors Rebuttal Test. at 29), he provides no evidence that this would have in fact been the case.

1           **Q.     Does Ms. Eubanks deal at all with Ms. Moore’s testimony on the**  
2 **meaning of the Missouri SIP?**

3           A.     No. She includes some quotes from Ms. Moore’s deposition, but  
4 none of these is relevant here. For example, Ms. Eubanks quotes Ms. Moore as  
5 saying that an EPA interpretation would control if it conflicts with an MDNR  
6 interpretation of the SIP. (Eubanks Rebuttal Test. at 11.) That is not correct, and  
7 certainly cannot be taken as a general rule or proposition as Ms. Eubanks claims.  
8 EPA’s ability to get deference for its interpretation of regulations is tightly  
9 circumscribed, as my direct testimony demonstrates. (Moor Direct Test. at 41-42  
10 and n.5.)

11           Ms. Eubanks also quotes Ms. Moore on “conversations with EPA staff”  
12 that the “routine” exclusion for NSR is “fairly narrow in interpretation.” (Eubanks  
13 Rebuttal Test. at 17.) Such hearsay has no value here, as Staff cannot show that  
14 Ameren Missouri was aware of such conversations with the unnamed EPA staff.  
15 What Ameren Missouri did know, as did the rest of industry, was that EPA  
16 publicly took the position that RMRR covered more than just “de minimis”  
17 maintenance, repair and replacement activities. See Moor Direct Test. at 26-30.

18           **IV.    COMMENTS ON STAFF’S MISCHARACTERIZATIONS**

19           **Q.     Staff cites several papers and studies from the 2007-2009 time**  
20 **period that refer to “NSR” as a potential driver for the retrofit of scrubbers.**  
21 **Do any of these documents suggest that Ameren Missouri secretly believed**

1 **that it had triggered NSR at Rush Island and that it would therefore need to**  
2 **install scrubbers if found liable in the future?**

3 A. No. In the context of enormous regulatory changes, known in the  
4 industry vernacular as the “train wreck” of converging regulatory requirements  
5 within tight timeframes, the installation of scrubbers at Rush Island had to be  
6 studied as part of proper utility planning.

7 **Q. What do you mean by “the train wreck”?**

8 A. Ameren Missouri explained it as follows:

9 During the time U.S. EPA was developing CAIR, a number of  
10 other regulations expected to affect coal-fired steam electric  
11 generating units were being developed, including air pollution  
12 standards for emissions of mercury and other hazardous air  
13 pollutants from electric generating units; performance standards  
14 for emissions of greenhouse gases from electric generating units;  
15 national ambient air quality standards for SO<sub>2</sub> and three other  
16 pollutants; rules governing cooling water intake structures;  
17 wastewater effluent guidelines; and rules for management of coal  
18 combustion byproducts, such as fly ash, under U.S. EPA’s solid  
19 waste program. Collectively, these rules were popularly referred  
20 to as a “train wreck” affecting the utility industry. (See generally,  
21 “EPA’s Regulation of Coal-Fired Power: Is a ‘Train Wreck’  
22 Coming?,” Congressional Research Service, Aug. 8, 2011  
23 (available at  
24 [www3.epa.gov/region1/npdes/merrimackstation/pdfs/ar/AR-](http://www3.epa.gov/region1/npdes/merrimackstation/pdfs/ar/AR-)  
25 [1162.pdf](http://www3.epa.gov/region1/npdes/merrimackstation/pdfs/ar/AR-1162.pdf).)

26 United States v. Ameren Missouri, ECF No. 1042-12 at 45 (¶ 39). Amidst all of  
27 these initiatives, EPA’s NSR enforcement initiative was a random variable  
28 confounding good utility planning processes.

29 **Q. How did Ameren Missouri respond to the train wreck?**



1           A.     Ameren Missouri did what, in my experience, all utilities did in  
2 these circumstances. It evaluated the potential regulatory requirements coming  
3 into effect for its system, and considered whether a settlement with EPA of its  
4 NSR claims could be obtained within the overall compliance plan required for the  
5 CAA programs.

6           **Q.     What was EPA’s settlement demand of Ameren Missouri?**

7           A.     EPA was demanding controls on every unit owned by Ameren  
8 Corporation subsidiaries. United States v. Ameren Missouri, ECF No. 1070 at 5-  
9 6. EPA began by focusing on all the Ameren units in Illinois, sending Ameren  
10 Missouri’s Illinois affiliates a settlement demand in July 2008 demanding the  
11 installation of wet FGD (i.e., scrubbers) on all units. Id. As documents produced  
12 by EPA showed, until 2010 (after the Unit 1 projects were done and the Unit 2  
13 projects had already begun), EPA’s main target was the Illinois units. These  
14 internal EPA documents show that EPA specifically discussed serving a Section  
15 114 request on the Ameren Missouri system to “put pressure” on Ameren to settle  
16 in Illinois. ECF No. 1070-1, Ex. A at EPA7A AME295302. As Judge Hopkins  
17 found in the Alabama Power NSR case, EPA’s enforcement initiative was “a  
18 sport” rather than “what one would expect to find in a national regulatory  
19 enforcement program.” *United States v. Ala. Power Co.*, 372 F. Supp. 2d 1283,  
20 1306 n.44 (N.D. Ala. 2005), *order vacated in part on other grounds*, No. 2:01-cv-  
21 00152-VEH, 2008 WL 11383702 (N.D. Ala. Feb. 25, 2008).

1           **Q.    Do Ameren Missouri’s internal discussions somehow show that**  
2 **its decision to undertake the Rush Island projects was made in bad faith to**  
3 **game the regulatory system?**

4           A.    No. As discussed above, the District Court found that Ameren  
5 Missouri had a compliance process and applied it to the evaluation of the Rush  
6 Island projects. The problem the District Court found was that Ameren Missouri  
7 “had a fundamental misunderstanding of the law” that was inconsistent with the  
8 Court’s understanding in 2017—not that the company was intentionally evading it.

9           **Q.    Can you give us some examples of where the Staff attempted to**  
10 **use references to “NSR” to imply bad faith on the part of Ameren Missouri**  
11 **decision makers?**

12          A.    Yes. Take, for example, the Staff’s reference to “NSR” in the Black  
13 & Veatch papers, where a generic description of NSR in a study of future scrubber  
14 installation is used by Staff to imply evasion of the law. None of these generic  
15 references to “NSR” concerns NSR liability at Rush Island—EPA issued no such  
16 NOV for Rush Island until 2010. Instead, the references to “NSR” in the Black &  
17 Veatch papers and other Ameren Missouri documents from 2008-2009 simply  
18 recognize that if EPA were to allege NSR violations against Ameren Missouri and  
19 if a settlement with EPA was warranted, any such settlement would likely result in  
20 installation of scrubbers at numerous Ameren Missouri plants. Ameren Missouri  
21 was considering that potential driver at the same time that it was devising the  
22 overall Environmental Compliance Plan submitted to this Commission, Callahan

1 Dep. at 28, 96-97, 105-06, 170-71, 190-91, 231-36, just as every other utility did  
2 when confronting the uncertainty of the “regulation through litigation” approach  
3 EPA was pursuing in its “initiative.”

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

5 A. Yes, it does.

**Notices of Violation (NOVs) Issued by EPA to Electric Utility Companies from 1999 to December 31, 2009  
and Resolutions of Such Claims Within That Period**

<b>NOV Date</b>	<b>Company</b>	<b>Units Named (State)</b>	<b>Consent Decrees Entered before Jan. 2010</b>	<b>System-Wide Resolution?</b>	<b>Units Covered by the Settlement</b>
11/3/1999	American Electric Power Service Corp.; Indiana Michigan Power Company, d/b/a American Electric Power (AEP); Ohio Power Company, d/b/a AEP; Appalachian Power Company, d/b/a AEP Columbus & Southern Ohio Electric Company, d/b/a AEP; Cardinal Operating Company; Central Operating Company	Cardinal Power Plant (OH) Unit 1 Cardinal Power Plant (OH) Unit 2 Cardinal Power Plant (OH) Unit 3  Conesville Power Plant (OH) Unit 1 Conesville Power Plant (OH) Unit 2 Conesville Power Plant (OH) Unit 3  Mitchell Plant (WV) Unit 1 Mitchell Plant (WV) Unit 2  Muskingum River Station (OH) Unit 1 Muskingum River Station (OH) Unit 2	<i>United States v. American Electric Power Service Corp.</i> , No. 99-1182 (and consolidated cases) (S.D. Ohio lodged Oct. 9, 2007, Order directing entry Dec. 13, 2007)	Yes, for AEP east	All

NOV Date	Company	Units Named (State)	Consent Decrees Entered before Jan. 2010	System-Wide Resolution?	Units Covered by the Settlement
		Muskingum River Station (OH) Unit 3 Muskingum River Station (OH) Unit 4 Muskingum River Station (OH) Unit 5  Philip Sporn Plant (WV) Unit 1 Philip Sporn Plant (WV) Unit 2 Philip Sporn Plant (WV) Unit 3 Philip Sporn Plant (WV) Unit 4 Philip Sporn Plant (WV) Unit 5  Tanners Creek Plant (IN) Unit 2 Tanners Creek Plant (IN) Unit 3 Tanners Creek Plant (IN) Unit 4			

NOV Date	Company	Units Named (State)	Consent Decrees Entered before Jan. 2010	System-Wide Resolution?	Units Covered by the Settlement
11/3/1999	Cinergy Corporation, PSI Energy, Inc., and Cincinnati Gas & Electric Company	Beckjord Plant (OH) Unit 1 Beckjord Plant (OH) Unit 2 Beckjord Plant (OH) Unit 3 Beckjord Plant (OH) Unit 4 Beckjord Plant (OH) Unit 5 Beckjord Plant (OH) Unit 6  Cayuga Plant (IN) Unit 1 Cayuga Plant (IN) Unit 2  Gallagher Plant (IN) Unit 1 Gallagher Plant (IN) Unit 2 Gallagher Plant (IN) Unit 3 Gallagher Plant (IN) Unit 4  Wabash River Plant (IN) Unit 1	<i>United States v. Cinergy Corp.</i> , No. 99-1693 (S.D. Ind. lodged Dec. 22, 2009, entered Mar. 18, 2010)	No	Gallagher Units 1-4 (after liability trial)

NOV Date	Company	Units Named (State)	Consent Decrees Entered before Jan. 2010	System-Wide Resolution?	Units Covered by the Settlement
		Wabash River Plant (IN) Unit 2 Wabash River Plant (IN) Unit 3 Wabash River Plant (IN) Unit 4 Wabash River Plant (IN) Unit 5 Wabash River Plant (IN) Unit 6			
11/3/1999	First Energy Corporation, Ohio Edison Company, and Pennsylvania Power Company	W.H. Sammis Plant (OH) Unit 1 W.H. Sammis Plant (OH) Unit 2 W.H. Sammis Plant (OH) Unit 3 W.H. Sammis Plant (OH) Unit 4 W.H. Sammis Plant (OH) Unit 5 W.H. Sammis Plant (OH) Unit 6 W.H. Sammis Plant (OH) Unit 7	<i>United States v. Ohio Edison Co.</i> , No. 99-1181 (S.D. Ohio lodged Mar. 23, 2005, Order directing entry July 11, 2005)	No	Sammis Units 1-7 (after liability trial)
11/3/1999	Illinois Power Company	Baldwin Plant (IL) Unit 1	<i>United States v. Illinois Power Co.</i> , No. 99-833	Yes	All (after liability trial)

NOV Date	Company	Units Named (State)	Consent Decrees Entered before Jan. 2010	System-Wide Resolution?	Units Covered by the Settlement
		Baldwin Plant (IL) Unit 2 Baldwin Plant (IL) Unit 3	(S.D. Ill. entered May 27, 2005)		
11/3/1999	Southern Company Services, Inc. / Alabama Power Company	Barry Steam Plant (AL) Unit 5  Gaston Steam Plant (AL) Unit 5  Gorgas Steam Plant (AL) Unit 10  Greene County Plant (AL) Unit 2  Miller Plant (AL) Unit 3 Miller Plant (AL) Unit 4	<i>United States v. Alabama Power Co.</i> , No. 01-152 (N.D. Ala. lodged Apr. 24, 2006, entered June 19, 2006)	No	Miller Units 3, 4 (Note: Miller involved “commence construction” NSR claims)
11/3/1999	Southern Company Services, Inc. / Georgia Power Company	Bowen Plant (GA) Unit 2  Scherer Plant (GA) Unit 3 Scherer Plant (GA) Unit 4			



NOV Date	Company	Units Named (State)	Consent Decrees Entered before Jan. 2010	System-Wide Resolution?	Units Covered by the Settlement
11/3/1999	Southern Company Services, Inc. / Gulf Power Company	Crist Plant (FL) Unit 7			
11/3/1999	Southern Company Services, Inc. / Mississippi Power Company	Watson Electric Generating Plant (MS) Unit 5			
11/3/1999	Southern Company Services, Inc. / Savannah Electric & Power Company	Kraft Plant (GA) Unit 3			
11/3/1999	Southern Indiana Gas and Electric Company (SIGECO)	F.B. Culley Station (IN) Unit 1 F.B. Culley Station (IN) Unit 2 F.B. Culley Station (IN) Unit 3	<i>United States v. Southern Indiana Gas &amp; Elec. Co.</i> , No. 99-1692 (S.D. Ind. entered Aug. 19, 2003)	No	Culley Units 1-3
11/3/1999	Tampa Electric Company (TECO)	Big Bend Station (FL) Unit 1 Big Bend Station (FL) Unit 2	<i>United States v. Tampa Electric Co.</i> , No. 99-2524 (M.D. Fla. entered Feb. 29, 2000)	Yes	All

NOV Date	Company	Units Named (State)	Consent Decrees Entered before Jan. 2010	System-Wide Resolution?	Units Covered by the Settlement
		Gannon Station (FL) Unit 3 Gannon Station (FL) Unit 4 Gannon Station (FL) Unit 6			
3/9/2000	Tennessee Valley Authority (TVA)	Allen Steam Plant (TN) Unit 3  Bull Run Steam Plant (TN) Unit 1  Colbert Steam Plant (AL) [no unit number identified]  Cumberland Steam Plant (TN) Unit 1 Cumberland Steam Plant (TN) Unit 2  John Sevier Steam Plant (TN) Unit 3  Kingston Steam Plant (TN) Unit 6 Kingston Steam Plant (TN) Unit 8			

NOV Date	Company	Units Named (State)	Consent Decrees Entered before Jan. 2010	System-Wide Resolution?	Units Covered by the Settlement
		Paradise Steam Plant (KY) Unit 1 Paradise Steam Plant (KY) Unit 2 Paradise Steam Plant (KY) Unit 3  Shawnee Steam Plant (KY) Unit 1 Shawnee Steam Plant (KY) Unit 1  Widows Creek Steam Plant (AL) Unit 5			
4/24/2000	Virginia Electric and Power Company	Mount Storm Power Plant (WV) Unit 1 Mount Storm Power Plant (WV) Unit 2 Mount Storm Power Plant (WV) Unit 3	<i>United States v. Virginia Elec. &amp; Power Co.</i> , No. 03-517 (E.D. Va. entered Oct. 3, 2003)	Yes	All (note: Mount Storm Units 1-3 already had FGD)
5/9/2000	Duke Energy Corporation	Allen Plant (NC) Unit 1 Allen Plant (NC) Unit 2			

NOV Date	Company	Units Named (State)	Consent Decrees Entered before Jan. 2010	System-Wide Resolution?	Units Covered by the Settlement
		Allen Plant (NC) Unit 3 Allen Plant (NC) Unit 4 Allen Plant (NC) Unit 5  Belews Creek Plant (NC) Unit 1 Belews Creek Plant (NC) Unit 2  Buck Steam Station (NC) Unit 3 Buck Steam Station (NC) Unit 4 Buck Steam Station (NC) Unit 5  Cliffside Steam Plant (NC) Unit 1 Cliffside Steam Plant (NC) Unit 2 Cliffside Steam Plant (NC) Unit 3 Cliffside Steam Plant (NC) Unit 4 Cliffside Steam Plant (NC) Unit 5			

NOV Date	Company	Units Named (State)	Consent Decrees Entered before Jan. 2010	System-Wide Resolution?	Units Covered by the Settlement
		Dan River Steam Station (NC) Unit 3  Marshall Steam Plant (NC) Unit 2 Marshall Steam Plant (NC) Unit 3 Marshall Steam Plant (NC) Unit 4  Riverbend Steam Plant (NC) Unit 4 Riverbend Steam Plant (NC) Unit 6 Riverbend Steam Plant (NC) Unit 7  W.S. Lee Steam Plant (SC) Unit 3			
6/28/2000	Cinergy Corporation, Cincinnati Gas and Electric, and PSI Energy, Inc.	Gibson Generating Station (IN) Unit 1 Gibson Generating Station (IN) Unit 2			

NOV Date	Company	Units Named (State)	Consent Decrees Entered before Jan. 2010	System-Wide Resolution?	Units Covered by the Settlement
		Miami Fort Generating Station (OH) Unit 5 Miami Fort Generating Station (OH) Unit 7			
6/30/2000	Dayton Power and Light Company	J.M. Stuart Generating Station (OH) – four units	<i>Sierra Club v. Dayton Power &amp; Light Co., Duke Energy Ohio, Inc., &amp; Columbus Southern Power Co., No. 04-905 (S.D. Ohio entered Oct. 23, 2008)</i>	No	Stuart Units 1-4
6/17/2002	Minnkota Power Cooperative, Inc.	Milton R. Young Station (ND) Unit 1 Milton R. Young Station (ND) Unit 2	<i>United States v. Minnkota Power Coop., No. 06-34 (D.N.D. entered July 27, 2006)</i>	No	Milton R. Young Units 1-2 (Note: units already had one FGD)
6/26/2002	Xcel Energy	Comanche Station (CO) Unit 1 Comanche Station (CO) Unit 2			

NOV Date	Company	Units Named (State)	Consent Decrees Entered before Jan. 2010	System-Wide Resolution?	Units Covered by the Settlement
		Pawnee Station (CO) – has one boiler unit			
1/24/2003	East Kentucky Power Cooperative	Spurlock (KY) Unit 2	<i>United States v. East Kentucky Power Coop.</i> , No. 04-34 (E.D. Ky. entered Sept. 24, 2007)	Yes	All
7/2/2003	East Kentucky Power Cooperative	Dale (KY) Unit 3 Dale (KY) Unit 4	<i>United States v. East Kentucky Power Coop.</i> , No. 04-34 (E.D. Ky. entered Sept. 24, 2007)	Yes	All
1/22/2004	Mirant Potomac River, LLC	Potomac River Power Plant (VA)	<i>United States v. Mirant Potomac River, LLC</i> , No. 04-1136 (E.D. Va. lodged Sept. 27, 2004, amended consent decree entered Apr. 20, 2007)	No	Potomac River Units 3-5

NOV Date	Company	Units Named (State)	Consent Decrees Entered before Jan. 2010	System-Wide Resolution?	Units Covered by the Settlement
1/22/2004	Westar Energy, Inc.	Jeffrey Energy Center Unit 1 Jeffrey Energy Center Unit 2 Jeffrey Energy Center Unit 3			
4/1/2004	Cinergy Corporation; PSI Energy, Inc.; and Cincinnati Gas & Electric Company	Gallagher Unit 1 Gallagher Unit 3  Gibson Unit 2  Miami Fort Unit 7			
4/1/2004	Cinergy Services, Inc.	Beckjord Plant (OH) Unit 1 Beckjord Plant (OH) Unit 2 Beckjord Plant (OH) Unit 3 Beckjord Plant (OH) Unit 4 Beckjord Plant (OH) Unit 5 Beckjord Plant (OH) Unit 6  Cayuga Plant (IN) Unit 1			



NOV Date	Company	Units Named (State)	Consent Decrees Entered before Jan. 2010	System-Wide Resolution?	Units Covered by the Settlement
		Cayuga Plant (IN) Unit 2  Gallagher Plant (IN) Unit 1 Gallagher Plant (IN) Unit 2 Gallagher Plant (IN) Unit 3 Gallagher Plant (IN) Unit 4  Gibson Plant (IN) Unit 1 Gibson Plant (IN) Unit 2  Miami Fort Plant (OH) Unit 5 Miami Fort Plant (OH) Unit 7  Wabash River Plant (IN) Unit 1 Wabash River Plant (IN) Unit 2 Wabash River Plant (IN) Unit 3			

NOV Date	Company	Units Named (State)	Consent Decrees Entered before Jan. 2010	System-Wide Resolution?	Units Covered by the Settlement
		Wabash River Plant (IN) Unit 4 Wabash River Plant (IN) Unit 5 Wabash River Plant (IN) Unit 6			
6/18/2004	American Electric Power Service Corp.; Indiana Michigan Power Company, d/b/a American Electric Power (AEP); Ohio Power Company, d/b/a AEP; Appalachian Power Company, d/b/a AEP Columbus & Southern Ohio Electric Company, d/b/a AEP; Cardinal Operating Company; Central Operating Company	Cardinal Power Plant (OH) Unit 1 Cardinal Power Plant (OH) Unit 2  Conesville Power Plant (OH) Unit 5 Conesville Power Plant (OH) Unit 6  John Amos Power Plant (WV) Unit 2  Kammer Power Plant (WV) Unit 1 Kammer Power Plant (WV) Unit 2 Kammer Power Plant (WV) Unit 3	<i>United States v. American Electric Power Service Corp., No. 99-1182 (and consolidated cases) (S.D. Ohio lodged Oct. 9, 2007, order directing entry Dec. 13, 2007)</i>	Yes	All

NOV Date	Company	Units Named (State)	Consent Decrees Entered before Jan. 2010	System-Wide Resolution?	Units Covered by the Settlement
		Muskingum River Station (OH) Unit 1 Muskingum River Station (OH) Unit 2 Muskingum River Station (OH) Unit 3 Muskingum River Station (OH) Unit 4 Muskingum River Station (OH) Unit 5  Philip Sporn Plant (WV) Unit 1 Philip Sporn Plant (WV) Unit 2 Philip Sporn Plant (WV) Unit 5  Tanners Creek Plant (IN) Unit 4			
9/29/2004	Northern Indiana Public Service Company (NIPSCO)	Bailly Electric Generating Station Unit 7			

NOV Date	Company	Units Named (State)	Consent Decrees Entered before Jan. 2010	System-Wide Resolution?	Units Covered by the Settlement
		Bailly Electric Generating Station Unit 8  Michigan City Station Unit 12  R.M. Schahfer Station Unit 4 R.M. Schahfer Station Unit 15			
2/15/2005	Louisiana Generating, L.L.C.	Big Cajun II Power Plant (LA) Unit 1 Big Cajun II Power Plant (LA) Unit 2			
4/26/2006	E. ON U.S. (Kentucky Utilities)	E.W. Brown Plant (KY) Unit 3	<i>United States v. Kentucky Utilities Co., No. 07-75 (E.D. Ky. entered Mar. 17, 2009)</i>	No	Brown Unit 3
7/31/2007	Midwest Generation, LLC and Commonwealth Edison Company	Crawford Station (IL) Unit 7 Crawford Station (IL) Unit 8			

NOV Date	Company	Units Named (State)	Consent Decrees Entered before Jan. 2010	System-Wide Resolution?	Units Covered by the Settlement
		Fisk Station (IL) Unit 19  Joliet Station (IL) Unit 6 Joliet Station (IL) Unit 7  Powerton Station (IL) Unit 5 Powerton Station (IL) Unit 6  Waukegan Station (IL) Unit 6 Waukegan Station (IL) Unit 7 Waukegan Station (IL) Unit 8  Will County Station (IL) Unit 1 Will County Station (IL) Unit 2 Will County Station (IL) Unit 3 Will County Station (IL) Unit 4			

NOV Date	Company	Units Named (State)	Consent Decrees Entered before Jan. 2010	System-Wide Resolution?	Units Covered by the Settlement
9/17/2007	Allegheny Energy, Inc.; Monongahela Power d/b/a Allegheny Energy; and West Penn Power d/b/a Allegheny Energy	Armstrong Generating Station (PA) Unit 1 Armstrong Generating Station (PA) Unit 2  Fort Martin (WV) Unit 1 Fort Martin (WV) Unit 2  Hatfields Ferry (PA) Unit 1 Hatfields Ferry (PA) Unit 2 Hatfields Ferry (PA) Unit 3  Willow Island (WV) Unit 2			
9/26/2007	E.ON U.S. (Kentucky Utilities)	Ghent Station (KY) Unit 1 Ghent Station (KY) Unit 3			

NOV Date	Company	Units Named (State)	Consent Decrees Entered before Jan. 2010	System-Wide Resolution?	Units Covered by the Settlement
3/10/2008	Duke Energy Corporation	W.H. Zimmer Generating Station (OH) Unit 1 W.H. Zimmer Generating Station (OH) Unit B006 W.H. Zimmer Generating Station (OH) Unit B007 W.H. Zimmer Generating Station (OH) Unit B008			
8/5/2008	Allele Inc. d/b/a Minnesota Power Company	Boswell Generating Station (MN) Unit 1 Boswell Generating Station (MN) Unit 2 Boswell Generating Station (MN) Unit 3 Boswell Generating Station (MN) Unit 4			

NOV Date	Company	Units Named (State)	Consent Decrees Entered before Jan. 2010	System-Wide Resolution?	Units Covered by the Settlement
		Laskin Generating Station (MN) Unit 2			
10/21/2008	Consumers Energy	J.H. Campbell Plant (MI) Unit 1 J.H. Campbell Plant (MI) Unit 2  B.C. Cobb Plant (MI) Unit 4 B.C. Cobb Plant (MI) Unit 5  D.E. Karn Plant (MI) Unit 1 D.E. Karn Plant (MI) Unit 2  J.C. Weadock Plant (MI) Unit 8			
11/25/2008	Unified Government of Wyandotte County/Kansas City, Kansas, acting through the Kansas City Board of Public Utilities	Nearman Creek Power Station (KS) Unit 1			



NOV Date	Company	Units Named (State)	Consent Decrees Entered before Jan. 2010	System-Wide Resolution?	Units Covered by the Settlement
		Quindaro Power Station (KS) Unit 1 Quindaro Power Station (KS) Unit 2			
12/8/2008	Nebraska Public Power District (NPPD)	Gerald Gentleman Station (NE) Unit 1 Gerald Gentleman Station (NE) Unit 2			
3/19/2008	E.ON U.S. and Kentucky Utilities Company (KU)	Ghent Station (KY) Unit 1 Ghent Station (KY) Unit 2 Ghent Station (KY) Unit 3 Ghent Station (KY) Unit 4			
3/26/2009	Richmond Power and Light	Whitewater Valley Generating Station (IN) Unit 1 Whitewater Valley Generating			

NOV Date	Company	Units Named (State)	Consent Decrees Entered before Jan. 2010	System-Wide Resolution?	Units Covered by the Settlement
		Station (IN) Unit 2			
3/27/2009	American Municipal Power-Ohio, Inc. and Elkem Metals, Inc.	Richard H. Gorsuch Generating Station (4 units)			
4/16/2009	Dominion Resources Services, Inc., Commonwealth Edison Company, Mirant Americas, Inc.	Kincaid Generating Station (IL) Unit 1 Kincaid Generating Station (IL) Unit 2  State Line Generating Station (IN) Unit 3  State Line Generating Station (IN) Unit 4			
7/24/2009	DTE Energy	Belle River Electric Generating Station (MI) Unit 1 Belle River Electric Generating Station (MI) Unit 2			

NOV Date	Company	Units Named (State)	Consent Decrees Entered before Jan. 2010	System-Wide Resolution?	Units Covered by the Settlement
		Monroe Electrical Generating Station (MI) Unit 1 Monroe Electrical Generating Station (MI) Unit 2 Monroe Electrical Generating Station (MI) Unit 3 Monroe Electrical Generating Station (MI) Unit 4  River Rouge Electric Generating Station (MI) Unit 2 River Rouge Electric Generating Station (MI) Unit 3			

NOV Date	Company	Units Named (State)	Consent Decrees Entered before Jan. 2010	System-Wide Resolution?	Units Covered by the Settlement
		St. Clair Generating Station (MI) Unit 2 St. Clair Generating Station (MI) Unit 3 St. Clair Generating Station (MI) Unit 4 St. Clair Generating Station (MI) Unit 6 St. Clair Generating Station (MI) Unit 7  Trenton Channel Generating Station (MI) Unit 9A Trenton Channel Generating Station (MI) Unit 17 Trenton Channel Generating Station (MI) Unit 18			

NOV Date	Company	Units Named (State)	Consent Decrees Entered before Jan. 2010	System-Wide Resolution?	Units Covered by the Settlement
		Trenton Channel Generating Station (MI) Unit 19			
8/12/2009	FirstEnergy Corporation	Ashtabula Generating Station (OH) Unit 5  Bay Shore Generating Station (OH) Unit 2 Bay Shore Generating Station (OH) Unit 3 Bay Shore Generating Station (OH) Unit 4  Eastlake Generating Station (OH) Unit 1 Eastlake Generating Station (OH) Unit 2			

NOV Date	Company	Units Named (State)	Consent Decrees Entered before Jan. 2010	System-Wide Resolution?	Units Covered by the Settlement
		Eastlake Generating Station (OH) Unit 3 Eastlake Generating Station (OH) Unit 4 Eastlake Generating Station (OH) Unit 5  Lake Shore Generating Station (OH) Unit 18			
8/18/2009	Painesville Municipal Electric Plant, Painesville, OH	Boiler 3 Boiler 4 Boiler 5			
8/26/2009	Hoosier Energy Rural Electric Cooperative	Merom Generating Station (IN) Unit 1 Merom Generating Station (IN) Unit 2			
8/26/2009	White Pine Electric Power, LLC	White Pine Power Plant (MI) Boiler 1			

NOV Date	Company	Units Named (State)	Consent Decrees Entered before Jan. 2010	System-Wide Resolution?	Units Covered by the Settlement
		White Pine Power Plant (MI) Boiler 2			
9/29/2009	Indianapolis Power & Light Company	Eagle Valley (formerly H.T. Pritchard) (IN) Unit 3 Eagle Valley (IN) Unit 4 Eagle Valley (IN) Unit 6  Harding Street (formerly Elmer W. Stout) (IN) Unit 5 Harding Street (IN) Unit 6 Harding Street (IN) Unit 7  Petersburg Generating Stations (IN) Unit 1 Petersburg Generating			

NOV Date	Company	Units Named (State)	Consent Decrees Entered before Jan. 2010	System-Wide Resolution?	Units Covered by the Settlement
		Stations (IN) Unit 2 Petersburg Generating Stations (IN) Unit 3 Petersburg Generating Stations (IN) Unit 4			
11/18/2009	Dayton Power and Light Company	O.H. Hutchings Generating Station (OH) Boiler 3 O.H. Hutchings Generating Station (OH) Boiler 6			
11/18/2009	Wisconsin Public Service Corporation	J.P. Pulliam Generating Station (WI) Unit 8 Weston Generating Station (WI) Unit 1			



NOV Date	Company	Units Named (State)	Consent Decrees Entered before Jan. 2010	System-Wide Resolution?	Units Covered by the Settlement
		Weston Generating Station (WI) Unit 2 Weston Generating Station (WI) Unit 3			
12/14/2009	Wisconsin Power and Light Co., Alliant Energy Corp., Madison Gas and Electric Co., Wisconsin Electric Power Co., Wisconsin Public Service Corp.	Columbia Energy Center (WI) Unit 1 Columbia Energy Center (WI) Unit 2  Edgewater Generating Station (WI) Unit 4 Edgewater Generating Station (WI) Unit 5  Nelson Dewey Generating Station (WI) Unit 1 Nelson Dewey Generating			

<b>NOV Date</b>	<b>Company</b>	<b>Units Named (State)</b>	<b>Consent Decrees Entered before Jan. 2010</b>	<b>System-Wide Resolution?</b>	<b>Units Covered by the Settlement</b>
		Station (WI) Unit 2			

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

In the Matter of Union Electric Company )  
d/b/a Ameren Missouri's Tariffs to Adjust ) Case No. ER-2022-0337  
Its Revenues for Electric Service )

**AFFIDAVIT OF KARL R. MOOR** }  
}ss  
**WASHINGTON, D.C.** }

Karl R. Moor, being first duly sworn states:

My name is Karl R. Moor, and on my oath I declare that I am of sound mind and lawful age; that I have prepared the foregoing *Surrebuttal Testimony*; and further, under the penalty of perjury, that the same is true and correct to the best of my knowledge and belief.

  
\_\_\_\_\_  
Karl R. Moor

Sworn to me this 9 day of March, 2023

  
\_\_\_\_\_  
Notary Public

