BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Union Electric Company d/b/a AmerenUE for Authority to File Tariffs Increasing Rates for Electric Service Provided to Customers In the Company's Missouri Service Area.	))))	**Case No. ER-2008-0318**

MOTION FOR LEAVE TO FILE SUPPLEMENTAL SURREBUTTAL TESTIMONY AND REQUEST FOR EXPEDITED TREATMENT

COMES NOW Union Electric Company d/b/a AmerenUE and, pursuant to 4 CSR 240-2.130(8), hereby requests leave to file the Supplemental Testimony of Mr. Shawn E. Schukar, which is attached hereto as Exhibit A, and requests expedited treatment of this motion pursuant to 4 CSR 240-2.080(16) and, as reasons therefor, states as follows:

1. Both Office of the Public Counsel (OPC) witness Ryan P. Kind and Missouri Industrial Energy Consumers (MIEC) witness James Dauphinais changed their positions on off-system sales in their surrebuttal testimonies. These changed positions are described in the proposed Supplemental Testimony of Shawn E. Schukar, attached hereto as Exhibit A.[1] The Company has also obtained new information from the Staff which allows the Company to accept the Staff's production cost modeling results, including relating to off-system sales revenues and margins.

2. Subsequent to those changes, AmerenUE deposed Mr. Kind (on November 18) and redeposed Mr. Dauphinais (on November 13). In the case of Mr. Kind, it was difficult to be sure what his new position was until after he was deposed, and the precise basis of Mr. Dauphinais' current position was also not entirely clear until after his second deposition was taken.

3. Mr. Schukar's proposed Supplemental Testimony addresses these two witnessess' changed positions. AmerenUE had no other opportunity to address these positions since these new positions were taken by these two witnessess' for the first time in surrebuttal testimony.

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[1] Mr. Schukar prepared this testimony while out-of-town. Consequently, Mr. Schukar's affidavit relating to this testimony will be provided on Monday, December 1, 2008.

4. Commission rule 4 CSR 240-2.130(8) contemplates that the presiding officer or the Commission may allow the supplementation of prefiled testimony. The Commission's rule on supplementation does not contain an explicit standard for deciding when supplementation is proper, although Commission rule 4 CSR 240-2.015 authorizes the Commission to waive any of its rules for "good cause." Good cause has been defined as referring to "a remedial purpose and is to be applied with discretion to prevent a manifest injustice or to avoid a threatened one.'" *In re Missouri Gas Energy,* 2005 WL 1131060 (citing ***Bennett v. Bennett***, 938 S.W.2d 952, 957 (Mo. App. S.D. 1997). It has also been defined as a "[l]egally sufficient ground or reason" which "must be real and not imaginary, substantial and not trifling, and reasonable not whimsical." *In Re: Aquila Network,* 2007 WL 1425480 (citing *Black's Law Dictionary* and *Belle State Bank v. Indus. Comm'n*, 547 S.W.2d 841, 846 (Mo. App. S.D. 1977); *Barclay White Co. v. Unemployment Compensation Bd.,* 50 A.2d 336, 339 (Pa. 1947)).

5. Good cause exists to allow supplementation here because it is necessary to allow the Company to respond to these changed positions, taken for the first time in surrebuttal testimony, in order to prevent the injustice (and to preserve the Company's Due Process rights) of these witnesses being allowed to present new evidence in support of new positions in surrebuttal without the Company being able to respond with relevant information that rebuts those positions.

6. The Company requests expedited treatment of this Motion pursuant to 4 CSR 240-2.080(16) and requests the Commission to take up this Motion prior to the beginning of the off-system sales issue on December 2. Expedited treatment will benefit the parties by allowing this Supplemental Testimony to be the subject of examination at the evidentiary hearings when the off-system sales issue is heard. Because the depositions of these two witnesses concluded just a few days before the evidentiary hearings in this case started, and because Thanksgiving break was the undersigned counsel's first opportunity to review those depositions and determine the precise nature

of the change in position taken by the parties, this Motion has been prepared and filed as soon as it could have been under the circumstances.

7. Workpapers underlying the proposed Supplemental Testimony were provided to all parties concurrently with the service of this Motion. Mr. Schukar can be cross-examined on this Supplemental Testimony when he appears for the off-system sales issue on March 2-3, 2008.

WHEREFORE, AmerenUE requests leave to file the Supplemental Testimony of Mr. Shawn E. Schukar, the form of which is attached hereto as Exhibit A, and requests expedited treatment of this Motion.

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing was served via e-mail, to the following parties on the 28th day of November, 2008.

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EXHIBIT A

Exhibit No.:	
Issues:	Off-System Sales
Witness:	Shawn E. Schukar
Sponsoring Party:	Union Electric Company
Type of Exhibit:	Supplemental Testimony
Case No.:	ER-2008-0318
Date Testimony Prepared:	November 28, 2008

MISSOURI PUBLIC SERVICE COMMISSION

CASE NO. ER-2008-0318

SUPPLEMENTAL TESTIMONY

OF

SHAWN E. SCHUKAR

ON

BEHALF OF

UNION ELECTRIC COMPANY
d/b/a AmerenUE

St. Louis, Missouri
November, 2008

SUPPLEMENTAL TESTIMONY

OF

SHAWN E. SCHUKAR

CASE NO. ER-2008-0318

Q. Please state your name and business address.

A. Shawn E. Schukar, Ameren Services Company, One Ameren Plaza, 1901 Chouteau Avenue, St. Louis, Missouri 63103.

Q. Are you the same Shawn E. Schukar who filed direct, rebuttal and surrebuttal testimonies in this case?

A. Yes.

Q. What is the purpose of this supplemental testimony?

A. I am briefly addressing the fact that Office of the Public Counsel (OPC) witness Ryan Kind and Missouri Industrial Energy Consumers (MIEC) witness James Dauphinais both changed their positions on off-system sales in their surrebuttal testimonies. The Company deposed both of them after they filed their surrebuttal testimony to obtain additional information about their changed positions. It is thus necessary to provide the Commission with relevant information that addresses their new positions. Moreover, the Company has now been provided with the Staff's production cost model run for the true-up of this case, which indicates that the Company and the Staff are in essential agreement on the level of off-system sales and the resulting net fuel costs in this case. As a result, it is appropriate to advise the Commission that the Company is willing to accept the Staff's production cost modeling results,[1] including off-

[1] This is based upon Staff's production cost modeling provided to the Company on November 13, 2008 which utilized the Company's true-up data provided to the Staff and the other parties on November 7.

system sales revenues and margins, for purposes of setting the Company's base rates and establishing the Company's net fuel costs in this proceeding.

Q. After accepting the Staff's production cost modeling results, what off-system sales margins are you recommending?

A. Staff's off-system sales margins (which include an imputed energy value from the Taum Sauk plant) from energy sales are $260.9 million, which is slightly more than the margins reflected in my rebuttal testimony (which were $256.35 million for energy, including an imputed value for Taum Sauk). This is calculated by using the Staff's off-system (energy) sales of $451,747,000 and the Staff's fuel costs of $544,120,000. To arrive at total off-system sales margins, it is necessary to account for capacity sales, ancillary services sales, RSG make-whole payments and a value capacity from the Taum Sauk plant, as I have addressed in my prior testimonies. This results in total recommended off-system sales margins as follows:

Energy:	$260.9
Capacity:	$ 6.4
Ancillary Svcs:	$ 3.5
RSG Make-Whole	$ 4.7
Taum Sauk Capacity	$ 4.9
	$280.4 million

The Company has accepted Staff's modeling because I believe it is universally agreed that forecasting off-system sales is a difficult, inexact science. Given this reality, and because the results of the Staff's modeling (which Staff has calibrated to the

Company's model) versus the Company's modeling were very close to each other (within just 1-2%), I believe using Staff's production cost modeling is reasonable.

A. Response to Mr. Kind's New Position

Q. Please describe Mr. Kind's new position.

A. Although Mr. Kind indicated that OPC had "chosen to change its proposal for OSS margins" in his surrebuttal testimony (Kind Surrebuttal, p. 13, l. 16), Mr. Kind's new position was unclear to me until after I was able to read the transcript of his deposition.

As I now understand OPC's new position, OPC is advocating that the Commission set off-system sales margins in this case equal to the AmerenUE Asset Management and Trading (AM&T) group's "gross margin" metric for the 12 months ending September 30, 2008, adjusted for Taum Sauk capacity and energy. Mr. Kind's change in position also includes taking a position on AmerenUE's non-asset based (i.e., speculative) trading operations, about which Mr. Kind had previously indicated that OPC was "not making . . . [a] recommendation at this time." Kind Direct, p. 11, l. 1. Mr. Kind's surrebuttal testimony now recommends including the revenues and costs from speculative trading activities in off-system sales margins used to set rates in this case.

Q. What is your response?

A. I will not repeat all of the earlier discussions in my other testimonies about the impropriety of using only the last 12 months of un-normalized data when the rest of the revenue requirement is being determined based upon normalized data. However I will address the following limited issues raised by Mr. Kind in his surrebuttal: (1) Mr. Kind's suggestion that AmerenUE did not fully respond to OPC DR Nos. 2146 and 2147;

and (2) Mr. Kind's new recommendation that the "gross margin" for the AmerenUE Asset Management and Trading group (AM&T) for the 12 months ending September 30, 2008 should be used to set off-systems sales margins in this case.

Q. Please address the issue respecting OPC DR Nos. 2146 and 2147.

A. Mr. Kind claims that it is "difficult to see how UE could have determined whether its power marketing group would be eligible to receive incentive compensation without performing the analysis requested . . . " by these two DRs. In fact, it is not difficult to see at all. Incentive compensation is paid in the first quarter of the year *following* the *calendar* year for which the compensation is being paid. The AM&T gross margin *for the calendar year* is a metric used in the incentive compensation calculation for AM&T employees. The calculation Mr. Kind asked for was the AM&T gross margin for the 12 months ending *in September*. The gross margin for the 12 months ending in September is completely irrelevant to paying incentive compensation, which is the reason why there AmerenUE had never calculated the particular numbers that Mr. Kind asked for.

Q. Please address Mr. Kind's decision to recommend use of the AM&T gross margin for the 12 months ending September 30, 2008, as outlined in his surrebuttal testimony and explained more directly during his deposition.

A. The AM&T gross margin is a metric used by AmerenUE to determine incentive compensation for AM&T employees for each calendar year for which incentive compensation is paid. As a review of Mr. Kind's deposition shows, Mr. Kind understands that sales of energy, ancillary services, and capacity are all part of the gross margin and that costs and revenues from non-asset based trading (i.e., speculative trading) are also part of the gross margin. As Mr. Kind points out in his surrebuttal testimony, I agree I did not include speculative trading costs and revenues in my off-system sales recommendation because AmerenUE accounts for those speculative trading activities "below-the-line" and understands that the Commission has had a long history of not exposing ratepayers to the risks associated with speculative trading. While I did not make a monetary adjustment for the net revenues and costs associated with the speculative trading portfolio, the value achieved from the speculative trading is included in the level of off-system sales I am recommending because AmerenUE continues to achieve greater transactional efficiency for all of its asset-based sales because of these speculative trading activities. The bottom line is that with the exception of the speculative trading costs and revenues (which were negative by $813,000 for the 12 months ending September 30, 2008), I have included the value for <u>all</u> of the components of the gross margin in my off-system sales recommendation in this case. The key difference is that my recommended off-system sales margins (as well as the Staff's recommendation, which as noted above I have accepted) is appropriately based upon normalized conditions whereas Mr. Kind's recommendation selectively picks the gross margin from a non-normalized 12-month period.

Q. Please summarize what you understand is Mr. Kind position and the flaws associated with that position

A. His primary position is to use the AM&T gross margin for the 12 months ending September 30, 2008 plus all of his Taum Sauk adjustments. This approach is fundamentally flawed.

Q. Why is Mr. Kind's approach fundamentally flawed?

A. Because it determines the level of off-system sales based on the actual market conditions (including abnormally high prices), actual plant operations, and actual load conditions for the 12 month period ending with the true-up cutoff date and mixes those actual, non-normalized results with normalized loads (and fuel cost levels based on normalized loads), mixes those actual results with fuel costs that include known and measurable changes through the true-up cutoff date, and also mixes these non-normalized results with normalized generation performance. This approach is inappropriate since it produces a known and measurable overstatement of off-system sales margins. For example, Mr. Kind fails to account for the fact that energy prices during this period reached abnormally high levels (*see* Figure SES-S2, below and then dropped-off dramatically), which accounts for tens of millions of dollars of abnormally high margins during this 12-month period, despite the fact that the dramatic drop in prices has now resulted in a projected gross margin for all of 2008 of just $275 million. Second, Mr. Kind does not make any adjustments for differences in normalized loads and losses used for determination of fuel costs and rate calculations and the actual loads and losses. The use of actual loads and losses results in approximately 284,000 MWh more sales than using the normalized load and losses which at an average off-system margin level of approximately $25/MWh, results in an overstatement of approximately $7.1 million in margins. Mr. Kind also makes no attempt to adjust for difference in sales as a result of the changes in fuel costs that occurred after January 1, 2008 (which affects both the amount and margin associated with sales, once again overstating off-system sales margins). Based on off-system sales that occurred in the 4th quarter of 2007 (3.8 million MWh) and the increase in fuel costs from 2007 to 2008 (approximately $1.31 per MWh) , Mr. Kind overstates off-system sales margins by an additional approximately $5 million. Mr. Kind also makes no adjustment for the difference in actual generation performance for the test period and the amount of generation utilized to determine fuel costs (approximately 2,275,000 MWh of base load generation) which at an average off-system sales margin of approximately $25/MWh results in an overstatement of an additional over $56 million. These four examples demonstrate why it is inappropriate to utilize Mr. Kind's proposal.

Q. Please explain Mr. Kind's alternative approach and how that approach compares to AmerenUE's proposal.

A. His "alternative approach" is to utilize the off-system sales margins from the models used to determine the fuel costs (Kind Surrebuttal p. 5, l. 9 -25) ($257.6 million) and to add to it the Taum Sauk energy value determined by either the Staff's or the Company's production cost model (whichever is preferred by the Commission – the Company's number is $20.9 million), plus his recommended capacity value for the current period for Taum Sauk ($7.9 million), plus his "prior period" Taum Sauk adjustment ($5.016 million), plus the net revenues (costs) for the speculative trading activities at AmerenUE for that same 12-month period. (Due to an error in the data the Company provided Mr. Kind, Mr. Kind thought speculative trading had generated $1.162 million of net revenues for that 12 month period, but in fact, there were net costs during that period of $813,000, as outlined on the Company's corrected response to OPC DR No. 2178, attached hereto as Schedule SES-S6.) This alternative approach (which Mr. Kind said is just a placeholder recommendation and that he is actually recommending his gross margin approach) would yield total off-system sales margins of $290.61 million.[2] My total recommended off-system sales margins prior to reviewing Staff's model run were $275.85 million and with accepting Staff's model run are now $280.4 million, meaning that with the exception of the prior period hold harmless adjustment relating to Taum Sauk, with which I disagree as explained in my earlier testimonies, OPC would be approximately $10 million apart from the Company and Staff under OPC's alternative approach.

B. <u>Response to Mr. Dauphinais' New Position</u>

Q. Please describe Mr. Dauphinais' new position.

A. Mr. Dauphinais presented an "updated" off-system sales recommendation in his November 2008 surrebuttal testimony. His prior recommendation (in his direct testimony) was to add $64.5 million to my supplemental direct testimony recommendation, which would have resulted in off-system sales margins of $318.96 million. He now recommends a much lower figure, $288.05 million, or only $12.2 million more than my recommended margins. Dauphinais Surrebuttal, p. 12, l. 24; Dauphinais Deposition, Nov. 18, 2008, p. 17, l. 8 – 15.[3] While this is significantly closer to the Company's position, he was only able to support his new position by selectively presenting market price data and cutting off available, relevant data that would have undermined and lowered his new recommendation.

Q. How do you respond?

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[2] $257.6 + 20.9 + $7.9 + 5.016 + -.813 = $290.61 million. Kind Deposition, p. 50, l. 4 – 19; p. 91, l. 5 – 12.

[3] Alternatively, Mr. Dauphinais would accept a rerun of the Company's or Staff's production cost model using an around-the-clock energy price of $45.56/MWh, which he expects would yield his approximately $12.2 million of additional margins. Dauphinais Surrebuttal, p. 12, l. 12-21; Nov. 18 deposition, p. 14, l. 15 – 19.

A. Mr. Dauphinais now obviously recognizes that the energy prices used for the budget figure upon which he based his earlier $318.96 million recommendation were too high. Mr. Dauphinais came to this conclusion by looking at my hourly weighted locational marginal prices (LMPs) through September 30, 2008. He revised his position by charting a trend line through the 12-month moving average of AmerenUE wholesale power prices between January 2007 and September 2008 (his Figure JRD-2 on page 5 of his surrebuttal testimony). He then decided that the endpoint of his "trendline" (also shown on his Figure JRD-2) is a normalized price for off-system sales.

The problem with Mr. Dauphinais approach is that his "trend" has changed, as shown on in Figure SES-S1 below (an update to my Figure SES-R1), below, and by Figure SES-S2, which is an extension of Mr. Dauphinais' rolling 12-month (8760 hour) moving average graphs that he presented in Figure JRD-2. As you can see, AmerenUE's realized LMPs (i.e., the prices for off-system sales realized by AmerenUE at its generating units, weighted by the units making the sales), have been falling significantly since earlier in 2008. Figure SES-S2 shows that off-system sales prices in recent months are lower than they have been in years and it is unreasonable to assume that the "trend" Mr. Dauphinais identified by selectively picking a time period and ignoring prices before or after is a trend that can reasonably be expected to continue. In fact, as Mr. Dauphinais noted in his recent deposition (Nov. 18, 2008, page 35, l. 6-11), based on his own forward-price methodology, the market's current consensus expectations for AmerenUE's average OSS price for the next 12 months is less than $38/MWh ($37.56), as discussed further below.

Figure SES-S1

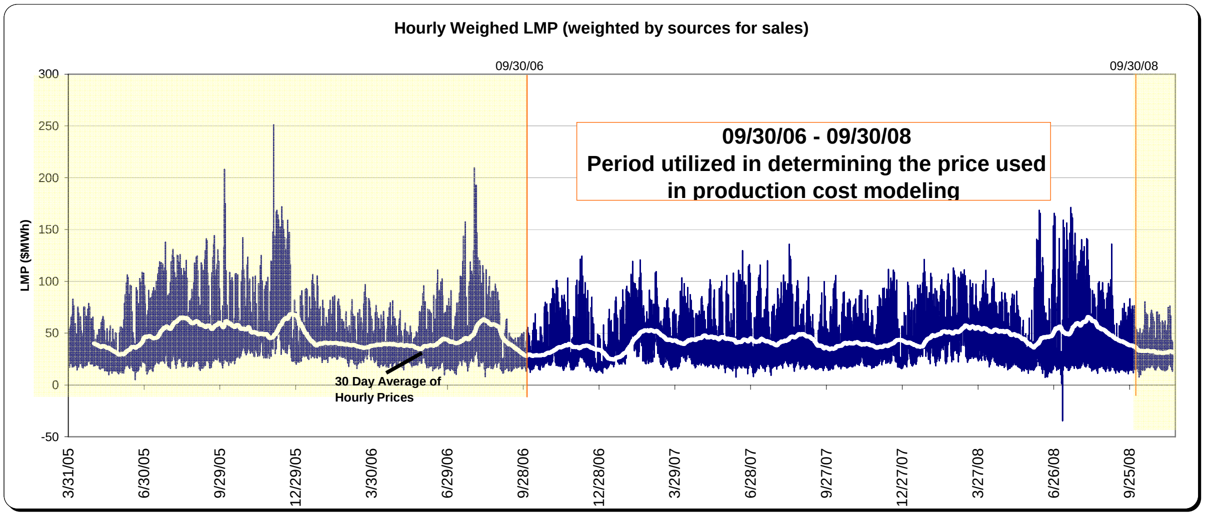
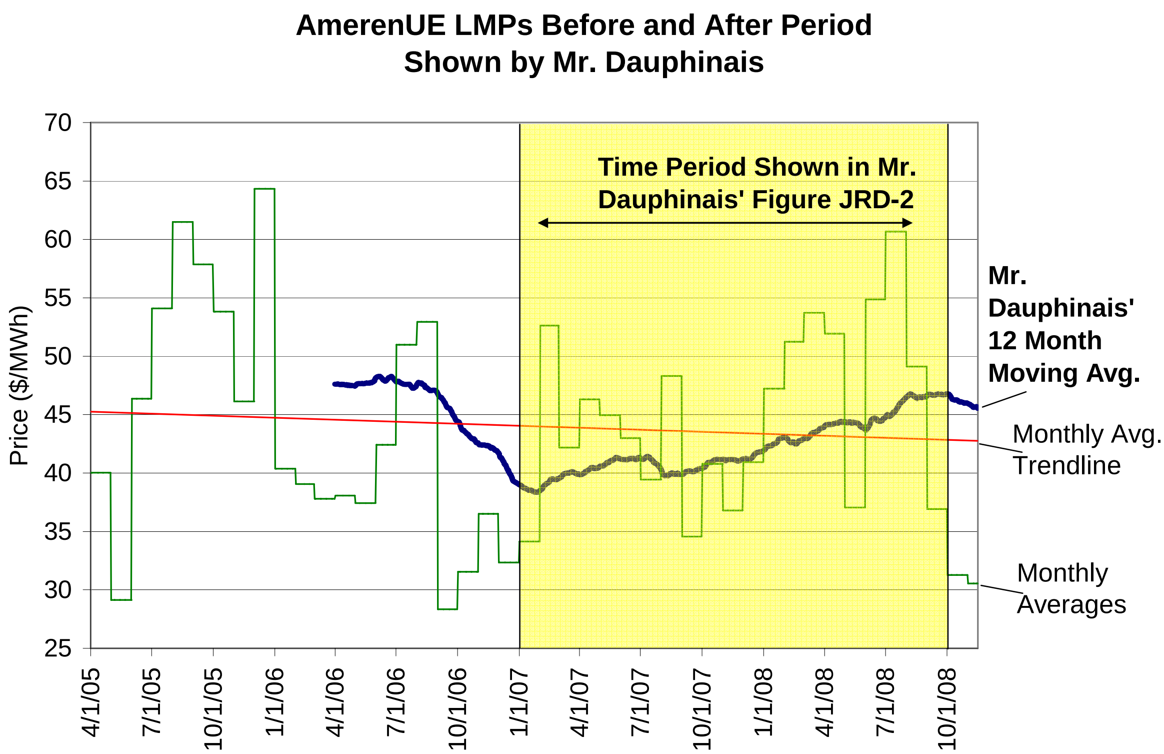


Figure SES-S2



Q. Do you have any other comments about Mr. Dauphinais' new position?

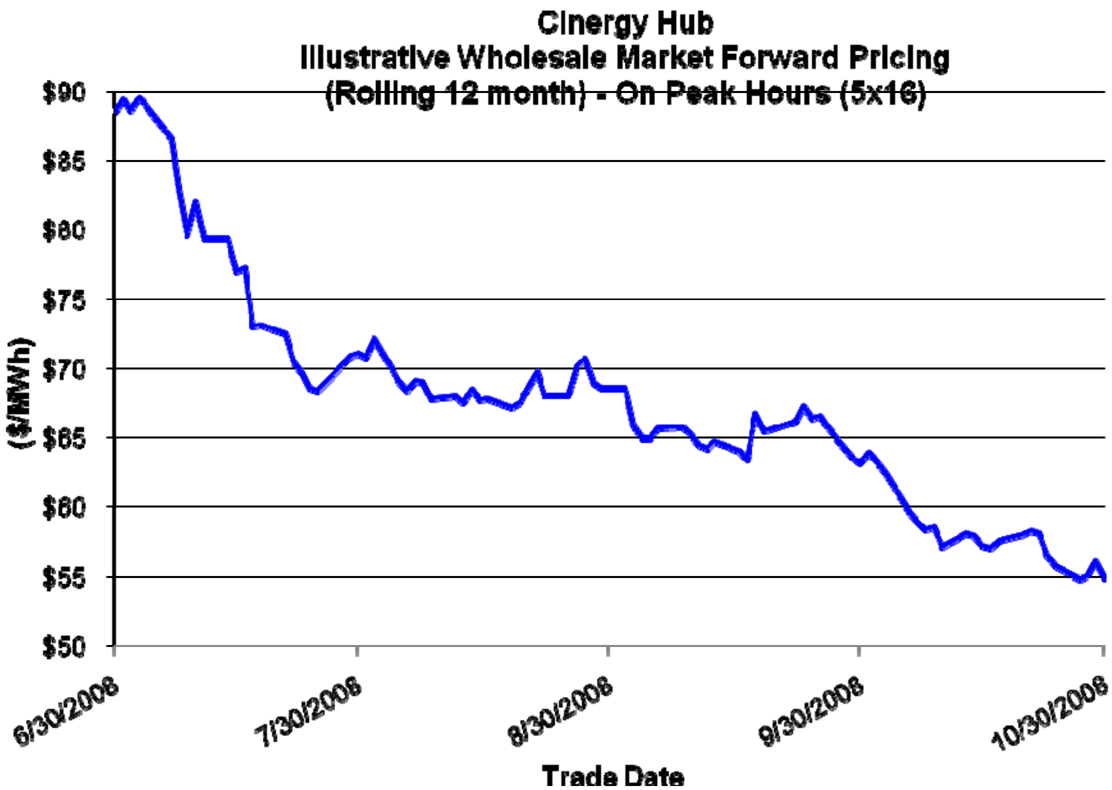
A. Yes, just one. Mr. Dauphinais also presented a Figure JRD-4 in his surrebuttal testimony, which he used to explain why he was recommending more than

$318 million in off-system sales margins in August but had dropped his recommendation now. Figure JRD-4 graphed Cinergy Hub on-peak forward energy prices for the succeeding 12-month period (e.g., a forward energy price as of July 30, 2008 shown in that chart would be the price for 1 MW of power traded at the Cinergy Hub during all peak hours from September 1, 2008 to August 31, 2009).

Figure JRD-4 is, in my opinion, highly misleading. By stopping Figure JRD-4 in August 2008, he has selectively excluded two months of price data that was available to him. This hides the extent to which market conditions have changed since the summer.

I have reproduced as Figure SES-S3 a graph contained in Mr. Dauphinais' own workpapers showing these 12-month forward prices through October 30, 2008, which demonstrates that the market's expectation for average annual Cinergy on-peak prices for the next 12 months are substantially lower—in fact almost $15/MWh lower—than the August end point depicted in Figure JRD-4.

Figure SES-S3
(reproduced from Mr. Dauphinais surrebuttal workpapers)



Note that this graph depicts Cinergy on-peak forward prices. Taking into account Mr. Dauphinais' basis differential between Cinergy and AmerenUE (i.e., the average pricing difference between the Cinergy Hub and AmerenUE's generating units) and the typical difference between on-peak prices and around-the-clock prices, the roughly $55/MWh Cinergy on-peak forward price for the 12 months following October 30, as shown in this graph, suggests that the market currently expects an AmerenUE around-the-clock price for the next year of only $37.56. This is approximately $6/MWh below my recommended normalized OSS price and $8 below Mr. Dauphinais' recommended price.

Q. Considering that rates are set on historical data, why do forward prices matter?

A. When the Commission sets rates, it is attempting to establish rates that will reflect a normalized level of costs and revenues during the time when rates in this case will be in effect – after March 1, 2009. While the Company is not recommending setting off-system sales based on forward energy prices, when a party picks an endpoint of a "trendline" of historical LMPs that have now come down due to a documented and significant change in market conditions, and selectively shows only a part of the forward price figure to the Commission, I believe it is important that the Commission have a full and fair picture of the data that is being provided to it, particularly when that data is used by the witness to support his recommendation and it relates to the period during which rates would be in effect. Even Mr. Kind, who is clearly adverse to the Company on this issue, agrees that "it's helpful to look forward beyond [the true-up] cutoff date."[4]

Q. Does this conclude your supplemental testimony?

A. Yes, it does.

[4] Kind Deposition, p. 56, l. 9 – 24.