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Representation/Voting at  
the Midwest ISO  
Witness: Maureen A. Borkowski  
Sponsoring Party: Union Electric Company  
Type of Exhibit: Surrebuttal Testimony  
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**MISSOURI PUBLIC SERVICE COMMISSION**

**CASE NO. EO-2011-0128**

**SURREBUTTAL TESTIMONY**

**OF**

**MAUREEN A. BORKOWSKI**

**ON**

**BEHALF OF**

**UNION ELECTRIC COMPANY**

**d/b/a Ameren Missouri**

**St. Louis, Missouri  
November, 2011**

**SURREBUTTAL TESTIMONY**

**OF**

**MAUREEN A. BORKOWSKI**

**CASE NO. EO-2011-0128**

1           **Q.     Please state your name and business address.**

2           A.     My name is Maureen A. Borkowski. My business address is One Ameren  
3 Plaza, 1901 Chouteau Avenue, St. Louis, Missouri 63103.

4           **Q.     By whom are you employed and in what capacity?**

5           A.     I am Senior Vice President of Transmission for Ameren Services  
6 Company (“Ameren Services”) and President and Chief Executive Officer of Ameren  
7 Transmission Company (“ATX”).

8           **Q.     Please describe your educational background and employment**  
9 **experience.**

10          A.     In 1979, I graduated, cum laude, from the University of Notre Dame,  
11 Notre Dame, Indiana, with a Bachelor of Science degree in Mechanical Engineering. In  
12 1981, I joined Union Electric Company (now d/b/a Ameren Missouri) (“Ameren  
13 Missouri” or “Company”) as an engineer in the Betterment Engineering Department. I  
14 transferred to Corporate Planning and, in 1985, was promoted to Supervising Engineer  
15 with responsibility for sales and peak demand forecasting. In 1988, I was promoted to  
16 Senior Supervising Engineer with responsibility for the development of demand-side  
17 resources, load analysis and forecasting. In 1989, I was promoted to Manager of Energy  
18 Supply Services with duties including the management of the Company’s wholesale  
19 power marketing activities, interconnection and transmission contract administration, and  
20 the preparation of the corporate fuel budget. Subsequently, my duties were expanded to

1 include natural gas supply and transportation procurement. I also developed and  
2 implemented the Company's Open Access Transmission Tariff in response to the Federal  
3 Energy Regulatory Commission's ("FERC") Order 888. In 1998, I became Manager of  
4 Regulatory Planning, and subsequently, Manager of the ARES Business Center,  
5 developing the business unit, tariffs, computer systems and business procedures to  
6 implement electric retail choice in the service territories of Ameren Missouri's Illinois  
7 electric distribution company affiliates. In May of 2000, I departed Ameren Services and  
8 subsequently formed my own consulting firm, Borkowski Enterprises, Inc., providing  
9 consulting and expert witness services to energy industry clients on topics including  
10 transmission tariff interpretation, wholesale power contract disputes and Regional  
11 Transmission Organization ("RTO") policy and implementation. In January, 2005, I  
12 returned to Ameren Services as Vice President of Transmission, with responsibility for  
13 transmission planning, operation and policy. In August, 2010, I was named President and  
14 Chief Executive Officer ("CEO") of ATX. In July, 2011, I was promoted to Senior Vice  
15 President of Transmission for Ameren Services.

16 **Q. What are your responsibilities in your current position?**

17 A. As Senior Vice President of Transmission for Ameren Services, my  
18 responsibilities include the planning, engineering, operation, construction and  
19 maintenance of the high voltage transmission system of the Ameren Corporation  
20 subsidiaries that own transmission (collectively, the "Ameren transmission-owning  
21 companies"). I am also responsible for transmission policy, North American Electric  
22 Reliability Corporation ("NERC") compliance, and regulatory activities related to  
23 transmission, including activities related to the participation of the Ameren transmission-

1 owning companies in the Midwest Independent Transmission System Operator, Inc.  
2 (“Midwest ISO”).

3 In my role as President and CEO of ATX, I am responsible for the development  
4 of and investment in regional transmission projects.

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

6 A. The purpose of my surrebuttal testimony is to respond to testimony  
7 relating to transmission planning and construction issues raised by Office of the Public  
8 Counsel (“OPC”) witness Ryan Kind, Missouri Industrial Energy Consumers (“MIEC”)  
9 witness James R. Dauphinais, and Staff witness Adam McKinnie. In particular, I address  
10 what I consider to be the irrelevant issues they raise regarding the operation of ATX or  
11 another Ameren transmission-owning subsidiary in Missouri. I also address Mr. Kind’s  
12 recommendation respecting Ameren Service’s representation of Ameren Missouri on the  
13 Midwest ISO’s Transmission Owner’s Committee (“TOC”).

14 **Q. Why do you consider the issues these witnesses raise regarding ATX**  
15 **to be irrelevant to the matter before the Commission in this docket?**

16 A. I am advised by counsel that a public utility subject to the Commission’s  
17 jurisdiction (Ameren Missouri here) has the right to transfer its assets (here, to transfer  
18 functional control of its transmission system to the Midwest ISO) free from Commission  
19 constraints so long as the transfer is not detrimental to the public interest. No party to  
20 this case has seriously disputed the very substantial affirmative benefit Ameren Missouri  
21 and its customers receive from remaining in the Midwest ISO, as demonstrated by the  
22 updated cost-benefit study addressed in Ameren Missouri witness Ajay Arora’s direct  
23 testimony. As Mr. Arora discusses in his surrebuttal testimony, although there are

1 various peripheral concerns raised by witnesses in their rebuttal testimonies about the  
2 cost-benefit study and its results, these concerns are immaterial in that they have no  
3 meaningful impact on the study results and they provide no basis for the conclusion that  
4 continued Ameren Missouri participation in the Midwest ISO is or would be detrimental  
5 to the public interest over the term of the extended permission Ameren Missouri is  
6 seeking in this docket. The “ATX issues” others have raised do not change the largely  
7 undisputed fact that Midwest ISO participation is not only not detrimental, indeed, that it  
8 is very substantially beneficial to the Company and its customers.

9 **Q. When you reference “ATX issues” raised by Messrs. Kind,**  
10 **Dauphinais, and McKinnie, to what are you referring?**

11 A. Specifically, the “ATX issues” raised in the rebuttal testimonies of Messrs.  
12 Kind, Dauphinais, and McKinnie include contentions that: 1) the Commission should in  
13 effect attempt to force Ameren Missouri to build transmission it does not desire to build  
14 and does not need to build in order to serve its customers; 2) Ameren Missouri is  
15 attempting to limit the Commission’s ability to set the transmission cost component of its  
16 retail rates; and 3), this Commission’s authority should, in effect, extend to Ameren  
17 Missouri’s non-regulated affiliates. I will address these issues in detail through the  
18 remainder of my surrebuttal testimony.

19 **Q. At pages 2 and 5 of his rebuttal testimony, MIEC witness Dauphinais**  
20 **argues that Ameren Missouri’s application in this proceeding essentially allows**  
21 **Ameren Missouri to limit or do an “end-run” around the Commission’s ability to set**  
22 **the transmission cost component of Ameren Missouri’s retail rates. OPC Witness**

1 **Kind makes the same argument at pages 9 and 10 of his rebuttal testimony. Do you**  
2 **agree?**

3 A. No, I do not. There are at least two flawed assumptions underlying this  
4 argument. The first is that Ameren Missouri alone has the exclusive right and obligation  
5 to construct all transmission which might happen to be physically located within its  
6 certificated service territory. The second is that the Commission will not continue to set  
7 the transmission cost component of Ameren Missouri's retail rates if ATX or another  
8 transmission company exists or builds transmission in Missouri.

9 **Q. Does Ameren Missouri alone have the exclusive right to construct**  
10 **transmission in its certificated service territory?**

11 A. My counsel advises me that the answer to that question is "no." While I  
12 am not a lawyer, it is my understanding that the significance of a public utility's  
13 certificated service territory is only that it obligates the public utility to serve retail  
14 customers located within that area who desire service, and it gives the public utility the  
15 exclusive right to serve those retail customers, but that it has nothing to do with who can  
16 build assets, such as a generating plant or a transmission line that is a part of the regional  
17 grid, in a particular location.

18 **Q. But doesn't Ameren Missouri have to build certain transmission**  
19 **assets?**

20 A. As I understand it, Ameren Missouri is required to provide safe and  
21 adequate service to its retail customers, and it stands to reason that this may mean that  
22 certain transmission assets should be built by Ameren Missouri so that it can discharge its  
23 obligation to those retail customers.

1           **Q.     Will Ameren Missouri build certain transmission assets?**

2           A.     Yes. As both Ameren Missouri CEO Warner Baxter and I have  
3           communicated to the Commission, Ameren Missouri intends to build transmission  
4           facilities located in Missouri that are being built for reliability purposes relating to  
5           serving Ameren Missouri’s retail load. More specifically, Ameren Missouri intends to  
6           build projects the Midwest ISO designates as “Baseline Reliability” projects and  
7           “Generation Interconnection” and “Transmission Service” projects if the generation or  
8           transmission customer for whom the project is constructed is Ameren Missouri. ATX or  
9           another Ameren subsidiary intends to build other transmission in Missouri. This would  
10          include projects the Midwest ISO designates as Multi-Value Projects (“MVPs”), Market  
11          Efficiency Projects (“MEPs”), and Generation Interconnection and Transmission Service  
12          Projects built for customers other than Ameren Missouri. These projects are all justified  
13          and approved for inclusion in the Midwest ISO Transmission Expansion Plan for reasons  
14          other than the need to provide reliable service to Ameren Missouri customers. Their  
15          costs are primarily allocated to entities other than Ameren Missouri. In fact, Ameren  
16          Missouri would be allocated far less than half of the cost of any of these projects. For  
17          example, in the case of MVPs, Ameren Missouri is currently allocated less than 10% of  
18          the cost of the projects.

19          **Q.     Why shouldn’t Ameren Missouri build all transmission that happens**  
20          **to be located within its certificated service territory in Missouri?**

21          A.     Because, as Mr. Baxter has stated, Ameren Missouri has made the  
22          business decision to invest its capital only in those projects which are necessary to  
23          reliably serve its retail load rather than in regionally beneficial projects and projects that

1 interconnect new, non-Ameren Missouri generation. Ameren Missouri's capital budgets  
2 simply will not allow Ameren Missouri to make the investments it needs to make in its  
3 distribution system, in its generating plants, and in transmission projects needed to  
4 reliably serve its retail load and to also invest in hundreds of millions of dollars of  
5 regional transmission projects. Ameren Missouri's capacity to make capital investment is  
6 not unlimited. Ameren Missouri has been carefully managing its capital investments to  
7 meet the needs of its retail customers while still maintaining financial stability.  
8 Increasing its capital investment beyond that needed to serve its customers results in  
9 downward pressure on Ameren Missouri's credit ratings, increasing its cost of capital for  
10 all of its investments. Alternatively, if Ameren Missouri kept its capital investment  
11 targets unchanged but still invested in regional transmission projects, it would need to  
12 eliminate generation or distribution projects needed to serve its retail customers. Ameren  
13 Missouri's retail customers would then forego the benefits that would have been derived  
14 from these eliminated projects.

15 **Q. But aren't all projects needed to reliably serve Ameren Missouri's**  
16 **retail load?**

17 A. No. While it is true that most, if not all, regionally beneficial projects help  
18 to improve the overall reliability of the transmission system across the Eastern  
19 Interconnection, there is a distinction between those projects that are directly necessary  
20 for Ameren Missouri to meet national and local reliability requirements to discharge its  
21 service obligation to its retail customers and those projects that generally make the  
22 overall system more reliable—despite what Mr. Kind suggests in his rebuttal testimony at  
23 page 9.



1           **Q.     What about Ameren Missouri’s responsibilities as a “Transmission**  
2 **Owner” (“TO”) under the Midwest ISO Transmission Owner’s Agreement**  
3 **(“TOA”) under the so-called “right of first refusal” that was raised by Commission**  
4 **questions posed in this docket? Don’t those responsibilities dictate that Ameren**  
5 **Missouri build all transmission located within its service territory or that connects**  
6 **to Ameren Missouri’s system?**

7           A.     No, they don’t.

8           **Q.     Why not?**

9           A.     To answer that question let me first explain very generally how  
10 transmission planning and construction works in the Midwest ISO. The Midwest ISO  
11 essentially determines what transmission is needed within its footprint based on  
12 reliability requirements, market efficiency and other public policy goals, taking into  
13 account input it receives from TOs and other stakeholders regarding transmission needs  
14 in the Midwest ISO footprint. The transmission projects approved by the Midwest ISO  
15 then need to be built by someone. For this purpose, the TOA treats the combined  
16 transmission systems of multiple companies that are Midwest ISO participants and that  
17 are owned by the same holding company (e.g., by Ameren Corporation) as a single  
18 “Owner” (as that term is defined in the TOA). Consequently, for transmission that is to  
19 be built that would connect to that combined system, the Midwest ISO looks to all of  
20 those companies to get it built, and each of those companies has the right and obligation  
21 to build it. In the case of Ameren Missouri and the other Ameren transmission-owning  
22 companies, Ameren Transmission Company of Illinois (“ATXI”) and Ameren Illinois  
23 Company (“AIC”), this means that if a transmission project is to be built that connects to

1 their combined system, one or more of them has the right and obligation under the TOA  
2 to build it. This is the so-called “right of first refusal,” and pre-FERC Order 1000<sup>1</sup>, it  
3 meant that an “Ameren” company participant in the Midwest ISO had the ability to  
4 connect to another Ameren company participant in the Midwest ISO’s transmission  
5 system (i.e., to build the project) prior to any other TOs being afforded that opportunity.  
6 Under this construct, no other TO would be allowed to build the project, unless all of the  
7 Ameren transmission-owning participants in the Midwest ISO declined to build a  
8 particular project, in which case one or more of the other TOs would build it.

9 **Q. You mentioned how this worked “pre-FERC Order 1000.” What is**  
10 **the significance of that order?**

11 A. As I believe the Commission is probably aware, given Mr. McKinnie’s  
12 close monitoring of FERC transmission policy, Order 1000, among other things,  
13 eliminates “rights of first refusal” such as I described above. While rehearing is being  
14 sought regarding certain aspects of FERC Order 1000, the Order is not stayed. If Order  
15 1000’s elimination of the right of first refusal stands, then once the compliance filings are  
16 made, other transmission companies will have the opportunity to build the kind of  
17 regional transmission projects that ATX plans to build and that the others in this docket  
18 are focused on, whether those projects are inside or outside of the Midwest ISO’s  
19 footprint, and have a right to connect to the combined transmission systems owned by  
20 Ameren Missouri, ATXI, AIC and any other company.

21 **Q. Are there other aspects of Order 1000 that are noteworthy with**  
22 **respect to the issues raised by others in this docket?**

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<sup>1</sup> Order 1000, *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, 136 FERC ¶ 61,051 (July 21, 2011).

1           A.     Yes. Prior to Order 1000, a utility and its customers would not be subject  
2 to regional cost allocation for regional transmission projects except to the extent the  
3 utility was an RTO member subject to the RTO’s tariff, which is the mechanism by  
4 which the cost of such projects are allocated to the utility and paid by them and,  
5 ultimately by their retail customers through their retail rates. Consequently, if a utility  
6 were to exit an RTO, it could avoid paying any part of the cost of a regional transmission  
7 project approved after it exited. This meant that the cost of regional transmission projects  
8 was in effect a “cost” of RTO participation. Post-Order 1000, all utilities, whether or not  
9 they are members of an RTO, will be part of a defined region and will be subject to  
10 allocations of the cost of any projects built within their region or across multiple regions,  
11 in accordance with the regional and interregional cost allocation methods. Put another  
12 way, exiting an RTO will not allow the utility to avoid paying the allocated costs of new  
13 transmission across the Midwest. For example, if Ameren Missouri left the Midwest  
14 ISO, it would not only be responsible for the allocated cost of projects approved before  
15 its departure, but would also be allocated costs for any project that was partly in its region  
16 and partly in the remaining Midwest ISO footprint. Moreover, it is my opinion that the  
17 ultimate result of FERC Order 1000 will be that all utilities, regardless of whether or not  
18 they are in an RTO, will be required to pay an allocated share of any regional and  
19 interregional transmission projects that benefit them, whether or not the projects literally  
20 “touch” the particular utility’s footprint.

21           **Q.     What do these developments in federal transmission policy and**  
22 **regulations mean in relation to the “ATX issues” others have attempted to inject**  
23 **into this docket?**

1           A.     It makes even clearer why these “ATX issues” are irrelevant to this case.  
2 Under FERC Order 1000, who builds what transmission is not dependent on whether or  
3 not Ameren Missouri is a Midwest ISO participant. Moreover, merely exiting an RTO  
4 does not mean that the utility will avoid all cost allocations relating to projects outside its  
5 footprint. Note further that under FERC Order 1000, even reliability projects needed to  
6 serve retail customers are subject to development by transmission companies other than  
7 those with certificated service territories where the projects are located if the reliability  
8 projects are subject to regional cost allocation, as they currently are under the Midwest  
9 ISO Tariff. Ameren Services, as a part of its representation of Ameren Missouri, AIC  
10 and ATXI, participated with the other Midwest ISO TOs in seeking rehearing of this  
11 aspect of the order to preserve Ameren Missouri’s and AIC’s ability to build reliability  
12 projects to serve their retail customers.

13           **Q.     Please summarize your first point.**

14           A.     Ameren Missouri is not obligated to build all transmission in its service  
15 territory. Ameren Missouri has decided not to build regional transmission projects (MEP  
16 or MVP) because they are not required to meet its service obligations, and Ameren  
17 Missouri believes it is not in its or its customers’ best interest to dedicate the capital  
18 required for these regional projects, as doing so would compromise other capital needs  
19 that are directly related to prudently meeting its service obligations. Consequently, there  
20 is no “end-run” around the Service Agreement as a result of ATX or another Ameren  
21 transmission-owning subsidiary building regional transmission projects because Ameren  
22 Missouri was not going to build the projects anyway. Moreover, transmission cost  
23 allocation does not depend solely on RTO membership. Rather, FERC Order 1000

1 makes clear that Ameren Missouri will not avoid transmission cost allocations for  
2 regional and interregional transmission projects even if it were to leave the Midwest ISO.

3 **Q. Your second point is that the Commission retains its authority over**  
4 **the transmission cost component of Ameren Missouri's rates. Why does the**  
5 **formation of ATX not serve to remove the Commission's authority over Ameren**  
6 **Missouri's transmission cost component?**

7 A. Because Ameren Missouri is a public utility regulated by the Commission,  
8 the Commission retains its authority over the transmission cost component of Ameren  
9 Missouri's retail rates. The fact that entities not subject to the Commission's authority  
10 construct a project (whether ATX or another unaffiliated company) does not void the  
11 Commission's authority over Ameren Missouri.

12 **Q. But if Ameren Missouri built these projects might the bottom line**  
13 **impact on Ameren Missouri's retail rates be less?**

14 A. I can't answer that question. For example, the capital needed by Ameren  
15 Missouri to build these regional projects would place downward pressure on its credit  
16 ratings and could raise the cost of capital for other Ameren Missouri investments as well.  
17 Other investment needs at Ameren Missouri could suffer, which could also lead to higher  
18 costs, as Ameren Missouri's customers would forego the benefits of investments which  
19 could not be made due to the diversion of capital dollars from other needed projects to  
20 regional transmission projects. Consequently, the combined impact on Ameren  
21 Missouri's retail rates is not clear.

1           **Q.     Mr. Dauphianis on page 7 (and Schedule JRD-1) of his testimony**  
2 **calculated the incremental rate impact of ATX building transmission projects**  
3 **instead of Ameren Missouri. How do you respond?**

4           A.     Mr. Dauphinais's calculation is seriously deficient and grossly overstates  
5 the potential incremental rate impact. Mr. Dauphinais's calculation assumes that 100%  
6 of the \$1 billion of investment he uses for his illustration will be allocated to Ameren  
7 Missouri, when such would not be the case. As I stated above, in the case of MVP  
8 projects, less than 10% of the cost of the projects is currently allocated to Ameren  
9 Missouri. As such, it would take approximately \$10 billion in project costs for projects  
10 built in Missouri to achieve a \$1 billion allocation to Ameren Missouri. At present, there  
11 is substantially less than \$1 billion, let alone \$10 billion, of transmission projects in  
12 Missouri slated for approval by the Midwest ISO. As such, Mr. Dauphinais's \$25 million  
13 figure grossly overestimates the incremental rate impact of ATX (or any other entity)  
14 building projects in Missouri. Utilizing the \$1 billion from Mr. Dauphinais's illustration  
15 and carrying thru Mr. Dauphinais's calculation with the corrected allocation to Ameren  
16 Missouri, the incremental rate impact is closer to \$2.5 million each year, not the \$24  
17 million he calculated. Because, at present, there is substantially less than \$1 billion of  
18 transmission in Missouri slated for approval by the Midwest ISO, the incremental rate  
19 impact would reduce proportionately. But even accepting \$1 billion figure, these  
20 calculations drive home the point I have been making: the development of regional  
21 transmission projects by ATX is irrelevant to these proceedings. If one were to calculate  
22 the net present value of the incremental impact of \$2.5 million per year, the incremental  
23 cost would not approach the net benefits of continued participation in the Midwest ISO

1 identified by Mr. Arora in his testimony. I am not conceding that Mr. Dauphinais's  
2 calculation, when corrected for the Ameren Missouri allocation, is accurate. This  
3 calculation does not consider the negative consequences of higher capital costs and  
4 foregone benefits of diverted capital investment that I identified earlier if Ameren  
5 Missouri were to construct regional transmission projects. These deficiencies together  
6 demonstrate that Mr. Dauphinais is substantially overstating any incremental cost, but it  
7 is illustrative that, even under these one-sided assumptions, the calculation just doesn't  
8 change the fact that Ameren Missouri should be participating in the Midwest ISO.

9 **Q. At page 7 of his rebuttal testimony, Mr. Dauphinais, as well as OPC**  
10 **witness Kind (at page 12 of his rebuttal testimony), and Mr. McKinnie (at pages 21-**  
11 **22 of his rebuttal testimony) recommends, in part, that the Commission condition**  
12 **Ameren Missouri's continued participation in the Midwest ISO on Ameren**  
13 **Missouri's acceptance of a condition that requires it to either build all transmission**  
14 **projects within Ameren Missouri's certificated retail service territory or receive**  
15 **approval to allow another entity to construct the transmission. Is Ameren Missouri**  
16 **able to accept the proposed condition?**

17 A. No, Ameren Missouri is not able to accept that condition.

18 **Q. Why not?**

19 A. Such a condition requires three things, none of which exist. First, the facts  
20 do not support the need for such a condition in order to prevent Ameren Missouri's  
21 continued Midwest ISO participation from being detrimental to the public interest  
22 through the period at issue in this case. Therefore, I am advised by counsel that the  
23 Commission lacks the authority to impose such a condition. Second, I am advised by

1 counsel that the Commission does not have the power to order Ameren Missouri to build  
2 (or buy) a particular asset as this would put the Commission in the role of managing the  
3 utility. Third, as I discussed earlier, such a condition would rest on the mistaken premise  
4 that Ameren Missouri alone has the exclusive right to construct transmission in its  
5 certificated service territory.

6 **Q. What if such a condition were imposed only with regard to ATX's**  
7 **ability to construct transmission in Ameren Missouri's service area?**

8 A. If Ameren Missouri alone does not have the exclusive right to construct  
9 transmission, then it doesn't matter whether the condition is intended to apply only to  
10 ATX. Moreover, consider what an attempt to impose such a condition would mean in the  
11 face of FERC Order 1000. What the Commission would be doing (assuming, which I do  
12 not believe is the case, that the Commission has the legal authority to tell ATX what it  
13 could or could not do) is placing ATX at a disadvantage versus unaffiliated companies.  
14 In other words, ATX would be subjected to restrictions on its ability to build projects in  
15 certain parts of Missouri solely because it happens to be an affiliate of Ameren Missouri  
16 whereas an unaffiliated company would be free of those restrictions.

17 **Q. The condition proposed by Messrs. Dauphinais and Kind also would**  
18 **condition Ameren Missouri's continued participation in Midwest ISO on Ameren**  
19 **Missouri's agreement that where it obtains approval for another entity to construct**  
20 **transmission projects, that entity shall obtain a certificate of convenience and**  
21 **necessity from the Commission. Is Ameren Missouri able to accept this proposed**  
22 **condition?**



1           A.     No. Ameren Missouri has no power to obligate any other company (ATX  
2 or any other company) to obtain a certificate of convenience and necessity from the  
3 Commission. If it is the Commission’s opinion that a company building a transmission  
4 line in Missouri and not under its current jurisdiction must have certificate authority, then  
5 it would be the Commission’s obligation to police and enforce the jurisdictional authority  
6 it believes it has.

7           **Q.     One of the concerns raised by Mr. Kind relates to a statement made**  
8 **by Ameren Missouri in its application for rehearing in Case No. EX-2010-0254 that**  
9 **a portion of the new Integrated Resource Plan (“IRP”) rules was preempted by**  
10 **federal law. To what is Mr. Kind referring?**

11          A.     In Ameren Missouri’s application for rehearing, Ameren Missouri took  
12 issue with the adoption of 4 CSR 240-22.045(3)(B)(5), which places upon an electrical  
13 corporation the burden to prove that it is beneficial to its customers when a regional  
14 transmission project unrelated to system reliability is constructed by an affiliate of the  
15 electrical corporation. Ameren Missouri asserted in its rehearing application that this  
16 regulatory requirement was in conflict with the authority of Midwest ISO, as delegated  
17 by the FERC, to decide what transmission projects are to be built and, as such, was  
18 preempted by federal law. I would note that the rule is now law and that there is no  
19 appeal of the rule pending, meaning Ameren Missouri will be required to comply with it.

20          **Q.     At page 8 of his rebuttal testimony, Mr. Kind opines that these**  
21 **statements “fail to recognize the important provisions in Section 5.3 of the Service**  
22 **Agreement that FERC permitted to go into effect.” Is that correct?**

1           A.     No. Section 5.3 of the Service Agreement provides that Ameren Missouri  
2 would be required to obtain the approval of the Commission before undertaking the  
3 construction of transmission upgrades where those upgrades were not required to support  
4 Ameren Missouri’s specific resource plans. At the time the Service Agreement was  
5 executed, the Midwest ISO had been delegated the authority by the FERC to determine  
6 which transmission projects were to be constructed in Missouri. That fact has not  
7 changed. That Ameren Missouri and the Midwest ISO *agreed* to allow the Commission  
8 approval authority for those projects to be constructed by Ameren Missouri did not  
9 prevent the construction of that transmission project by an affiliate or any other  
10 transmission company where the Midwest ISO had determined a transmission project  
11 was necessary. Consequently, there is no conflict between the Service Agreement, which  
12 remains in effect, and the Midwest ISO’s ultimate authority to determine which  
13 transmission projects are to be constructed. Moreover, as noted, Ameren Missouri will  
14 have to comply with the IRP rule’s requirement.

15           **Q.     In summary, are the “ATX issues” something that makes Ameren**  
16 **Missouri’s continued participation in Midwest ISO detrimental to the public**  
17 **interest?**

18           A.     No, they are not. No party or witness for a party in this case has seriously  
19 contended that Ameren Missouri should not continue to participate in the Midwest ISO or  
20 that the cost of doing so over the next few years (“ATX issues” or not) would render that  
21 continued participation detrimental to the public interest. Even if Ameren Missouri is not  
22 a Midwest ISO participant, regional transmission projects that are deemed necessary and  
23 which are located within Missouri will be built and, given FERC Order 1000, Missouri

1 customers are going to pay their share of the cost of those projects as well as the costs of  
2 any interregional projects. To the extent that the Commission may be concerned that  
3 ratepayers may be forced to bear the costs of a regional transmission project that is not  
4 commensurate with the benefits these ratepayers receive, the Commission's concern  
5 would more properly be directed at the federal authority delegated to the Midwest ISO or  
6 otherwise reflected in the cost allocation principles in FERC Order 1000. Ameren  
7 Missouri's continued participation in the Midwest ISO, however, is not made detrimental  
8 to the public interest because of these issues.

9 **Q. Staff Witness McKinnie suggests at page 22 of his rebuttal testimony**  
10 **that the terms of the Service Agreement be applied to Ameren Missouri's affiliates,**  
11 **including ATX, by virtue of Ameren Missouri's "transfer" of its right to construct,**  
12 **own and/or operate transmission. Do you agree that this is an appropriate**  
13 **condition?**

14 A. No. As my testimony has explained, Ameren Missouri does not solely  
15 hold an exclusive right to construct transmission projects. As a result, it cannot "transfer"  
16 that right to another affiliate or to an unrelated transmission company. Even if it did hold  
17 such a right and could transfer that right, Ameren Missouri would not have the right to  
18 subject an unregulated transmission company to the Commission's jurisdiction solely  
19 because of that transfer.

20 **Q. At page 22 of his rebuttal testimony, Mr. McKinnie also refers to the**  
21 **transfer of "current transmission assets" by Ameren Missouri to an affiliate and**  
22 **suggests that this is another way the Commission could obtain jurisdiction over the**

1 **affiliate. Is Ameren Missouri contemplating the transfer of “current transmission**  
2 **assets” to any affiliate?**

3 A. No.

4 **Q. Even if it were, would this be a basis for extending Commission**  
5 **jurisdiction over an affiliate via the Service Agreement?**

6 A. The two are unrelated. First of all, as I understand it, the Commission  
7 would have jurisdiction over deciding whether such a transfer was detrimental to the  
8 public interest, and the transfer could not occur if the Commission determined it would  
9 be detrimental. If the transfer were allowed to occur, then obviously the Commission  
10 would not have made such a finding. Second, as I noted earlier, Ameren Missouri cannot  
11 impose the Commission’s jurisdiction on a separately-operated company, nor can the  
12 Commission impose “jurisdiction” over such a company unless the Commission in fact  
13 possesses it. If the transfer of a “transmission asset” somehow caused the transferee to  
14 fall within the jurisdiction of the Commission, it would be the Commission’s  
15 responsibility to assert and enforce that jurisdiction over that company. The  
16 Commission’s jurisdiction either exists or it doesn’t, and even where it exists, it isn’t  
17 exercised through company A (Ameren Missouri) to company B (ATX or any other  
18 company).

19 **Q. Mr. Kind asks the Commission to “require UE to cease having**  
20 **Ameren Services represent it at the Midwest ISO and instead have its own**  
21 **representative actively participating in the Midwest ISO Transmission Owners**  
22 **Committee and as needed in other Midwest ISO stakeholder groups . . .” How do**  
23 **you respond?**

1           A.       I would first note that Ameren Missouri witness Jaime Haro is addressing  
2 Mr. Kind’s recommendation with respect to the many areas at the Midwest ISO for which  
3 he has responsibility, which are principally areas associated with the energy, capacity,  
4 and ancillary services markets, generation dispatch, market settlements, financial  
5 transmission rights and resource adequacy. I am addressing Mr. Kind’s comments as  
6 they pertain to the Transmission Owners Committee, the Advisory Committee, and the  
7 Planning Advisory Committee, as those Committees all pertain to my area of  
8 responsibility. I would agree with the observation Mr. Haro made regarding the Midwest  
9 ISO stakeholder groups that impact his areas of responsibility; that is, Mr. Kind’s  
10 recommendation reflects a fundamental misunderstanding of Ameren Services’ role  
11 regarding the three committees I address in my testimony.

12           **Q.       Can you please briefly explain what those committees do?**

13           A.       Yes. The Transmission Owners Committee is made up of the signatories  
14 to the Transmission Owners Agreement, the governing document establishing the  
15 Midwest ISO, who have transferred the functional control of their transmission assets to  
16 the Midwest ISO. The TOC participates in transmission rate design and other tariff  
17 issues and has exclusive jurisdiction over transmission revenue distribution. The  
18 Advisory Committee (“AC”) is a stakeholder committee with sector-based representation  
19 that serves as a forum for Midwest ISO members to keep apprised of the Midwest ISO's  
20 activities and to provide information and advice to the Midwest ISO Board of Directors  
21 on policy matters. The Planning Advisory Committee (“PAC”) is a stakeholder  
22 committee with sector-based representation that provides advice to the Midwest ISO  
23 Planning Staff on policy matters related to the process, adequacy, integrity and fairness of

1 the Midwest ISO transmission expansion plan and cost allocation. The PAC reports to  
2 the AC.

3 **Q. Please explain Ameren Services' role regarding the Ameren Missouri**  
4 **transmission system and Ameren Missouri's Midwest ISO participation in**  
5 **transmission-related areas.**

6 A. Ameren Services has provided transmission planning, engineering,  
7 construction and operations services for Ameren Missouri's transmission system since  
8 Ameren Services was formed pursuant to the terms of the General Services Agreement  
9 that has been in place between Ameren Services and Ameren Missouri (and the other  
10 Ameren companies) since 1997.<sup>1</sup> This enables that organization to realize substantial  
11 synergies by sharing personnel, equipment, computer systems and software, processes,  
12 and knowledge, which results in a much lower cost to Ameren Missouri than if Ameren  
13 Missouri were to maintain a duplicative transmission organization of its own. Ameren  
14 Services has also acted as Ameren Missouri's agent (and as agent for other Ameren  
15 companies who are also transmission owners under the Midwest ISO TOA) at the  
16 Midwest ISO since the inception of Ameren Missouri's Midwest ISO participation in  
17 2004.

18 **Q. Why is it important that the Ameren Services transmission**  
19 **organization act as Ameren Missouri's agent, as well as agent for ATXI and AIC?**

20 A. Because Ameren Services plans and operates their respective transmission  
21 systems in an integrated manner and because, as I explained earlier, the Midwest ISO  
22 views all subsidiaries who are the Midwest ISO TOs and who are owned by a single

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<sup>2</sup> The currently in-effect Amended and Restated General Services Agreement was entered into on March 25, 2008, but its basic terms are in all material respects the same as the original General Services Agreement first put in place in 1997.

1 holding company as one owner. The Ameren Services transmission group is actively  
2 involved at the Midwest ISO with respect to transmission operations, planning and  
3 policy. It would be a wasted duplication of effort and resources for Ameren Missouri to  
4 have its own separate representative participate in the committee meetings. Further, as  
5 there are currently no Ameren Missouri employees in the transmission planning and  
6 transmission operations area other than transmission linemen and their supervisors, it  
7 would be difficult for Ameren Missouri to effectively represent itself in these areas  
8 without adding and training new personnel.

9 **Q. But does that mean that Ameren Missouri shouldn't have its "own**  
10 **representative" in these committees?**

11 A. Yes, it does. The premises behind Mr. Kind's recommendation are  
12 incorrect. His first premise is that Ameren Missouri has a "vote" that is separate from a  
13 "vote" held by ATXI or AIC in all committee votes, which, as I discuss below, is not true  
14 except in limited circumstances. His second premise is that Ameren Missouri's  
15 "interests" are somehow not being protected by Ameren Services to the detriment of  
16 Ameren Missouri and its customers, which as I discuss below is also not true. While not  
17 completely clear, it may be that a third premise underlying Mr. Kind's recommendation  
18 is that Ameren Missouri should build regionally beneficial transmission projects that it  
19 does not need to build in order to reliably serve its load.

20 **Q. Please explain why Mr. Kind's first premise is incorrect.**

21 A. As I earlier explained, under the TOA, all subsidiaries who are Midwest  
22 ISO TOs and who are owned by a single holding company are treated as a single owner  
23 at the TOC. As Mr. Haro explains, this is also true for the Midwest ISO stakeholder

1 committees that touch upon his areas of responsibility, aside from transmission areas  
2 covered by the TOA. Consequently, Ameren Services only has one vote that it can cast,  
3 except for certain votes which involve revenue collection and distribution pursuant to  
4 Federal Power Act Section 205 filings, in which case Ameren Missouri, AIC and ATXI  
5 each have a vote. There is no justification to duplicate personnel (and raise costs for  
6 Ameren Missouri and its customers) to perform functions already being properly  
7 performed by Ameren Services and which won't result in any improvement in the  
8 representation of Ameren Missouri's interests at the TOC.

9 **Q. Please explain why Mr. Kind's second premise is incorrect.**

10 A. Ameren Missouri's interests are represented fairly and equitably at all of  
11 these committees. Mr. Kind doesn't point to a single instance where this has not been  
12 true. Rather, he engages in speculation and innuendo. For example, consistent with the  
13 TOC's focus upon transmission planning, when a new transmission owner seeks to join  
14 the Midwest ISO, the TOC works with the Midwest ISO to help establish a list of  
15 projects that the joining member was planning to construct prior to joining the Midwest  
16 ISO. These identified projects are then excluded from being cost shared to the existing  
17 Midwest ISO TOs and their load. This protects Ameren Missouri's customers from  
18 paying for projects that were planned by the new member prior to joining the Midwest  
19 ISO. A similar process is currently being discussed with respect to the plans to integrate  
20 Entergy into the Midwest ISO. Another area where the TOC has been active is in policy  
21 decisions that impact generator interconnection agreements and who should pay for  
22 needed system upgrades. The majority of TOC members, including Ameren Services on  
23 behalf of the three Ameren companies that are TOs, have worked diligently to protect



1 local retail loads from being assigned costs for projects that should be the responsibility  
2 of the interconnecting generator. As I have already stated earlier, with regard to seeking  
3 rehearing of FERC Order 1000, Ameren Services joined with the other TOs in asking  
4 FERC to reconsider the aspect of the order which allows transmission companies other  
5 than the company operating in the service territory to build reliability projects in that  
6 company's service territory. These are just three examples where Ameren Services is  
7 clearly working in the interest of Ameren Missouri and its customers. Mr. Kind's  
8 speculation and innuendo is unfounded in fact.

9 **Q. Please elaborate in this context on why the third premise is incorrect.**

10 A. As I have already explained, Ameren Missouri does not need to build  
11 regional transmission projects ( for example, Market Efficiency Projects or Multi Value  
12 Projects) to meet its service obligations to its customers, nor does it desire to build them,  
13 given the capital constraints it faces and the need to deploy its limited capital in other  
14 areas. To the extent Mr. Kind is suggesting that Ameren Missouri would build these  
15 kinds of projects, if Ameren Missouri had its own separate representative sitting at the  
16 table, he is simply mistaken.

17 **Q. Does Ameren Missouri have a representative that properly and**  
18 **effectively looks out for its interests and that of its customers regarding transmission**  
19 **issues?**

20 A. Yes, it does.

21 **Q. Who is that person?**

22 A. Dennis Kramer, Manager of Transmission Policy and Planning. Mr.  
23 Kramer has over thirty years of experience in the energy industry in a variety of

1 functions. He has been with Ameren Services in a transmission policy role for the past  
2 six years. He is currently the Vice-Chair of the TOC and has been elected as the Chair of  
3 the TOC for 2012 and 2013. He is also currently the Vice-Chair of the AC. His  
4 leadership positions provide him the opportunity to help ensure that topics and issues  
5 important to Ameren Missouri are given fair hearing and consideration at the TOC and  
6 the AC. In his role as Ameren Service's representative at the TOC, he focuses primarily  
7 upon transmission planning, policy, and reliability issues. He and his staff also represent  
8 Ameren Missouri's interests during discussions at various Midwest ISO stakeholder  
9 organizations that deal with transmission planning, policy or reliability issues. As noted,  
10 those interests are not, as Mr. Kind incorrectly alleges, in conflict with the interests of the  
11 other Ameren subsidiaries who are TOs in the Midwest ISO.

12 **Q. Are Ameren Missouri retail customer interests represented at the**  
13 **Midwest ISO?**

14 A. Yes. As noted, Ameren Services has effectively and fairly represented  
15 Ameren Missouri's and its retail customers' interests at the Midwest ISO. Mr. Kind  
16 assumes this has not happened, but he does not actually allege it has not happened, nor  
17 does he cite any evidence that it has not happened. Moreover, Mr. Kind's testimony  
18 implies that this Commission and indeed his office are helpless to influence the Midwest  
19 ISO's policies. That, too, is untrue.

20 **Q. Please elaborate.**

21 A. I noted earlier the Ameren Services transmission group's involvement on  
22 the AC and the PAC. The AC has a total of 24 seats, only three of which are occupied by  
23 TOs. State regulatory authorities have three seats, and public consumer advocates have

1 two seats. Consequently, groups like this Commission and OPC have more seats than do  
2 the TOs themselves. Similarly, the PAC has a total of nine seats, only one of which is  
3 occupied by the TOs, with a total of two seats being occupied by state regulatory  
4 authorities and public consumer advocates.

5 **Q. What about the TOC itself?**

6 A. At the TOC, Ameren Services has just one of 25 votes for the vast  
7 majority of votes and for votes at the TOC that involve Section 205 filings involving  
8 revenue collection and distribution, Ameren Services has three votes out of 19, one each  
9 for Ameren Missouri, AIC and ATXI. The idea that Ameren Missouri ought to push  
10 Ameren Services aside as its representative and that this will somehow result in better  
11 representation for Ameren Missouri, or will elevate Ameren Missouri's influence at the  
12 Midwest ISO, is simply untrue.

13 **Q. Mr. Kind indicates in his testimony that, as he was unable to**  
14 **review business plans for Ameren and ATX, he logically concludes that**  
15 **Ameren and its subsidiaries have interests which are different from Ameren**  
16 **Missouri and its customers. Do you agree?**

17 A. No, I do not. As I have already stated, all of the Ameren transmission-  
18 owning companies share the desire of a safe, reliable, and cost efficient transmission  
19 system. That they are different corporate entities does not mean that they have diverse  
20 interests. While ATXI has no retail customers, its interest in developing regional  
21 transmission projects does not in any way diverge with Ameren Missouri's desire to  
22 safely, reliably and cost efficiently serve its customers. In fact, as I have already  
23 explained, ATXI or any Ameren subsidiary investing in regional transmission projects

1 actually assists Ameren Missouri in meeting its service obligations to its retail customers  
2 by helping Ameren Missouri better utilize its limited capital. As I have also described,  
3 the development of the Midwest ISO Transmission Expansion Plan, in which both local  
4 reliability and regional projects would be identified, is conducted by MISO in an open  
5 stakeholder process. The criteria for project selection are well defined in the Midwest  
6 ISO tariff and the analysis of the projects is based on determining the reliability,  
7 efficiency, and public policy benefits to customers. In all of the planning activities, the  
8 interests of the Ameren transmission–owning companies are aligned, in seeking safe,  
9 reliable, and cost efficient solutions which benefit retail customers.

10 **Q. Mr. Kind states that it is Ameren Missouri’s burden to demonstrate**  
11 **that it is not detrimental to the public interest to have Ameren Services continuing**  
12 **to represent its interest at the Midwest ISO. Can you respond?**

13 A. I believe Mr. Kind’s characterization of Ameren Missouri’s “burden” is  
14 incorrect. Ameren Missouri’s burden is to demonstrate that its Midwest ISO  
15 participation is not detrimental to the public interest. That Mr. Kind makes an  
16 unsupported allegation does not then impose some affirmative burden on Ameren  
17 Missouri beyond the showing Ameren Missouri must make to continue the transfer of  
18 functional control of its transmission assets to the Midwest ISO. Moreover, I have  
19 demonstrated that Mr. Kind’s contention that Ameren Services is not properly  
20 representing Ameren Missouri at the Midwest ISO is incorrect. I have already described  
21 various instances where Ameren Services has demonstrated its advocacy for Ameren  
22 Missouri and its customers. I described how the interests of the Ameren transmission-  
23 owning companies are aligned and not diverse. I have indicated that Ameren Missouri

1 has no employees engaged in transmission planning, operations, or or policy and would  
2 have to incur to additional expense to conduct its own representation. The reality is that,  
3 despite Mr. Kind's allegations, there is no divergence of interests of the Ameren  
4 transmission-owning companies, no evidence that Ameren Services does not represent  
5 Ameren Missouri's interest, and no need for Ameren Missouri to have its own  
6 representation.

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

8 A. Yes.

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

In the Matter of the Application of Union Electric )  
Company d/b/a Ameren Missouri for Authority to )  
Continue the Transfer of Functional Control of Its )  
Transmission System to the Midwest Independent )  
Transmission system Operator, Inc. )

Case No. EO-2011-0128

**AFFIDAVIT OF MAUREEN A. BORKOWSKI**

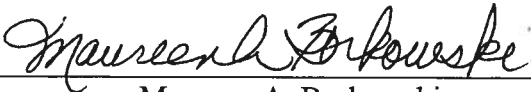
STATE OF MISSOURI         )  
  ) ss  
CITY OF ST. LOUIS         )

Maureen A. Borkowski, being first duly sworn on her oath, states:

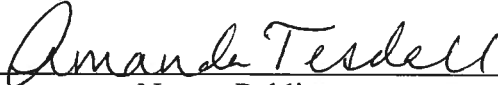
1.       My name is Maureen A. Borkowski. I work in the City of St. Louis, Missouri, and I am employed by Ameren Services as Senior Vice President of Transmission.

2.       Attached hereto and made a part hereof for all purposes is my Surrebuttal Testimony on behalf of Union Electric Company d/b/a Ameren Missouri consisting of 28 pages, all of which have been prepared in written form for introduction into evidence in the above-referenced docket.

3.       I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct.

  
\_\_\_\_\_ Maureen A. Borkowski

Subscribed and sworn to before me this 1st day of November, 2011.

  
\_\_\_\_\_ Amanda Tesdall  
Notary Public

My commission expires:

