

Exhibit No.:  
Issue(s): ATX Issues and Representation/Voting  
at the Midwest ISO  
Witness: Maureen A. Borkowski  
Sponsoring Party: Union Electric Company  
Type of Exhibit: Supplemental Surrebuttal Testimony  
Case No.: E0-2011-0128  
Date Testimony Prepared: February 6, 2012

**MISSOURI PUBLIC SERVICE COMMISSION**

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

**SUPPLEMENTAL SURREBUTTAL TESTIMONY**

**OF**

**MAUREEN A. BORKOWSKI**

**ON**

**BEHALF OF**

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

**St. Louis, Missouri  
February, 2012**

1 SUPPLEMENTAL SURREBUTTAL TESTIMONY

2 OF MAUREEN A. BORKOWSKI

3 CASE NO. EO-2011-0128

4 Q. Please state your name.

5 A. My name is Maureen A. Borkowski.

6 Q. Are you the same Maureen A. Borkowski who filed surrebuttal testimony  
7 in this docket?

8 A. Yes, I am.

9 Q. What is the purpose of your Supplemental Surrebuttal Testimony?

10 A. The purpose of my Supplemental Surrebuttal Testimony is to respond to the  
11 “Supplemental Rebuttal Testimony” of Office of the Public Counsel (“OPC”) witness  
12 Ryan P. Kind.

13 Q. Mr. Kind spends several pages discussing “jurisdiction” over the  
14 transmission component of Ameren Missouri’s bundled retail rate as well as paragraph  
15 10.j of the Non-Unanimous Stipulation and Agreement among Ameren Missouri, the  
16 Staff and MIEC. His basic point appears to be that the Commission should impose, as  
17 part of this docket, a condition relating to Ameren Transmission Company’s possible  
18 operation in Missouri, presumably the condition that OPC specifies in its Statement of  
19 Position or that the Staff previously discussed, which OPC claims is now an issue as  
20 evidenced by Item 5 on the *Second Revised List of Issues and Order of Cross-*  
21 *Examination and First Revised Witness List and Order of Opening Statements* recently  
22 filed in this docket. How do you respond to Mr. Kind’s discussion?

1           A.     Mr. Kind’s entire discussion is largely a reiteration of the points he made in  
2 earlier testimony. As I testified in my Surrebuttal Testimony, the issues he raises about what  
3 Ameren Transmission Company (“ATX”) may later do in Missouri are irrelevant to this  
4 docket because whatever ATX does would not make Ameren Missouri’s Midwest ISO  
5 participation detrimental to the public interest.

6           **Q.     Why not?**

7           A.     Aside from the legal issues raised by OPC’s attempt to prescribe what Ameren  
8 Missouri should or should not do, or to otherwise attempt to apply through this docket rules  
9 on a company this Commission doesn’t regulate (which the Company’s lawyers have already  
10 addressed in the Company’s original Statement of Position), from a purely dollars and cents  
11 perspective, it is obvious that the construction of transmission in Missouri during the  
12 proposed period of Ameren Missouri’s continued Midwest ISO participation would not  
13 render Ameren Missouri’s continued Midwest ISO participation detrimental to the public  
14 interest. This is true even if I accepted the premise that ATX’s construction of transmission  
15 in Missouri has anything to do with Ameren Missouri’s Midwest ISO participation, which I  
16 do not.

17           **Q.     When you say from a “dollars and cents” perspective, what do you mean?**

18           A.     Of all of the MVP projects recently approved for construction by the Midwest  
19 ISO in its 2011 Midwest ISO Transmission Expansion Plan (“MTEP”), the only relevant  
20 Missouri project is the project we call the “Mark Twain Project,” a 345,000 volt transmission  
21 line extending from the Iowa border north of Kirksville and then south and east to Associated  
22 Electric’s Palmyra substation. According to the 2011 MTEP, this project is not scheduled to

1 be in-service until late 2020. ATX plans to build that line, at an estimated cost of  
2 approximately \$200 million. However, the amount currently forecasted or budgeted to be  
3 spent on that project by ATX between now and 2016 is only approximately \$11 million. The  
4 point is that while we may disagree with OPC about the propriety of ATX building this line,  
5 about the Commission's authority over its construction if ATX builds it, and about what the  
6 impact may be years from now via Midwest ISO charges to Ameren Missouri, those disputes  
7 have nothing to do with, nor need they have anything to do with, this docket. This is because  
8 ATX's activities in Missouri over the next few years in no way could materially impact the  
9 more than \$100 million of benefits to Ameren Missouri's ratepayers derived from Ameren  
10 Missouri's continued Midwest ISO participation.

11 **Q. Why would ATX's activities in Missouri during the extended period of**  
12 **Midwest ISO participation sought in this case not materially impact these benefits?**

13 **A.** Because as I explained in my Surrebuttal Testimony, only 10% or less of the  
14 cost of a project like the Mark Twain Project will actually be allocated to Ameren Missouri.  
15 If, for example, you were to assume the line was placed in service and then calculate the  
16 hypothetical "incremental" impact of ATX building such a line versus Ameren Missouri  
17 building it (I don't agree that this incremental impact would necessarily exist, but for  
18 purposes of this example will assume it does using the assumptions similar to those  
19 Mr. Dauphinais used in his rebuttal testimony), the net present value of that increment to  
20 Ameren Missouri's customers over the 40 year life of the line would only be approximately  
21 \$1.6 million.

1           **Q. As you noted, Mr. Kind makes reference to paragraph 10.i and**  
2 **paragraph 10.j of the Non-Unanimous Stipulation and Agreement and expresses**  
3 **criticism of those provisions. What is the purpose of those provisions?**

4           A. While I do not believe what I will generally refer to as the “ATX issues” are  
5 in fact issues in this case (for the reasons I’ve already expressed), Ameren Missouri  
6 recognized that others had a different view and that those issues were distracting this docket  
7 from what it is really about – should Ameren Missouri continue to participate in the Midwest  
8 ISO. Consequently, Ameren Missouri agreed to do two basic things. First, Ameren Missouri  
9 agreed, in effect, to eliminate whatever very small rate impact the FERC rate treatment of an  
10 ATX investment in Missouri transmission could have during the period of the extended  
11 permission to participate in the Midwest ISO it seeks – that elimination is reflected in  
12 paragraph 10.j, as Mr. Kind acknowledges. Second, Ameren Missouri and ATX agreed to  
13 transparently engage in an investigatory docket that would allow the other stakeholders and  
14 the Commission to acquire the facts regarding ATX’s plans in Missouri – that agreement is  
15 reflected in paragraph 10.i.

16           **Q. Is Mr. Kind correct that any incremental rate impact if ATX builds**  
17 **transmission in Missouri beyond, say 2016-2017 when the extended permission Ameren**  
18 **Missouri seeks would end, isn’t dealt with by paragraph 10.j?**

19           A. While he is correct that the facilities would likely be depreciated over a  
20 40 year period, that fact is irrelevant to this docket for at least two reasons. First, if you  
21 assume that there is an incremental impact (which I do not), it is so small (as quantified  
22 above) that it doesn’t render Ameren Missouri’s continued Midwest ISO participation

1 detrimental to the public interest. Second, the expiration of the voluntary ratemaking  
2 concession made by Ameren Missouri in paragraph 10.j does not mean that it might not  
3 continue if Ameren Missouri's Midwest ISO participation continues after the next  
4 Commission proceeding that will be initiated in 2015, depending on a variety of factors that  
5 no party can foresee today.

6 **Q. Please comment on Mr. Kind's criticism of paragraph 10.i.**

7 A. Essentially, Mr. Kind's contention is that the Staff and MIEC are apparently  
8 incapable of making a reasoned decision that allows them (and OPC for that matter) and the  
9 Commission to investigate ATX's plans in Missouri and the impact of those plans on  
10 Ameren Missouri's customers, indicating that "OPC" would "not expect the docket to  
11 accomplish very much." Mr. Kind essentially goes on to accuse Ameren Missouri (and  
12 ATX) of bad faith by implying that Ameren Missouri and ATX won't comply with the  
13 reasonable discovery needed for the investigation and even suggests that Ameren Missouri  
14 will use the docket to lobby the Commission for changes to existing law (which of course the  
15 Commission has no power to make). He also quibbles with how a term was defined in  
16 paragraph 10.i (although its definition is clear) and quibbles with the binding effect of  
17 paragraph 10.j, apparently because an ATX employee did not sign it.

18 **Q. Are Mr. Kind's contentions accurate or supported by anything other**  
19 **than his own supposition?**

20 A. No, they are not. I am authorized to speak on Ameren Missouri's behalf in  
21 my role as Sr. Vice President of Transmission for Ameren Services Company, which  
22 constructs, operates and maintains Ameren Missouri's transmission system on Ameren

1 Missouri's behalf. I am also authorized to speak on behalf of ATX, as its President and  
2 CEO. In that role, I authorized the Company's attorney to sign the Non-Unanimous  
3 Stipulation and Agreement on ATX's behalf, thus binding ATX. Ameren Missouri is subject  
4 to the Commission's jurisdiction, and thus is required to respond to proper discovery. ATX  
5 has consented to do so as well. The point of the agreement is to give the parties to that  
6 investigatory docket the same access to ATX's information to the extent it relates to Missouri  
7 transmission as there would be to Ameren Missouri information. As has always been the  
8 case, if OPC (or any party for that matter) believes that ATX has not responded to proper  
9 discovery, it can ask the administrative law judge in the docket to enforce its discovery  
10 requests. Despite Mr. Kind's aspersions, I am told that OPC has rarely sought a decision to  
11 compel Ameren Missouri to comply with discovery.

12 **Q. Mr. Kind complains that Ameren Missouri and ATX have not agreed to**  
13 **perform “quantitative modeling” in the docket. How do you respond?**

14 A. While I am not an attorney, it is my understanding that discovery is by its very  
15 nature designed to allow parties access to existing facts and data. It's not Ameren Missouri  
16 or ATX's role to compile analysis OPC might want compiled. That is true in the proposed  
17 investigatory docket and is true in any other kind of case before the Commission, including a  
18 rate case.

19 **Q. But without such analyses how can the Commission understand the**  
20 **impact of the three topics Mr. Kind mentions on page 21, lines 16 to 24 of his**  
21 **Supplemental Rebuttal Testimony?**

1           A.     The first topic deals with the impact of ATX constructing transmission in  
2 Missouri. The other parties will be able to access the information the need to determine what  
3 ATX plans to do, and to determine what Ameren Missouri plans to do for that matter, and  
4 what costs are involved, and they are free to do whatever analyses they choose to do with that  
5 information. As for the second and third topics, both of which essentially deal with the  
6 Midwest ISO's capacity markets, it is my understanding that that issue will be accounted for  
7 in the next cost-benefit study to be filed by May 15, 2015, a study the Company will conduct,  
8 with substantial input from the stakeholders. It is also my understanding, based upon reading  
9 Mr. Arora's testimonies, that Ameren Missouri is long capacity for several years, extending  
10 well beyond the extended permission period at issue in this case, which means that the  
11 concerns Mr. Kind apparently wants to analyze now have nothing to do with whether  
12 Ameren Missouri should continue to participate in the Midwest ISO for the next four years or  
13 so.

14           **Q.     Is there anything else that demonstrates the unreasonableness of**  
15 **Mr. Kind's position?**

16           A.     Yes, on page 13 of his Supplemental Rebuttal Testimony he has drafted a  
17 provision he indicates "could" have been included in the Non-Unanimous Stipulation and  
18 Agreement. Incredibly, what this provision says is that the Missouri Commission could  
19 refuse to recognize in Ameren Missouri's rates transmission cost allocation charges assessed  
20 to Ameren Missouri by the Midwest ISO under the Midwest ISO's FERC-approved tariff for  
21 transmission *no matter who builds it and even if it is built in Illinois* to the extent those  
22 charges reflected transmission rate incentives that the FERC itself would already have



1 determined were appropriate. Mr. Kind can't have it both ways. He can't expect for the  
2 Company to participate in the Midwest ISO and pass tens of millions of dollars of benefits to  
3 ratepayers, which is a benefit of that participation, but at the same time avoid for ratepayers  
4 what he perceives to be a "burden" on ratepayers arising from transmission built in the  
5 Midwest ISO's footprint. As I noted in my Surrebuttal Testimony, the Commission either  
6 has jurisdiction over a transmission company building a regional project in Missouri or it  
7 doesn't. Regardless of under what circumstances the Commission may have jurisdiction  
8 over Missouri-sited transmission, it is inconceivable to me that it could ever have jurisdiction  
9 over transmission located in another state.

10 **Q. Mr. Kind spends quite a bit of time talking about what he refers to as an**  
11 **"ATX Plan." He cites a number of provisions from it. Does this ATX Plan reflect**  
12 **ATX's past, current, or planned future operations in Missouri or elsewhere?**

13 A. No, it does not. Mr. Kind, when he identified the plan (Kind Suppl.  
14 Surrebuttal, p. 15, l. 21), failed to note that the plan is nearly two years old and even then that  
15 it was a draft plan, and is clearly labeled as such. In Mr. Kind's Supplemental Rebuttal  
16 Attachment B, despite the clear designation as a draft, Mr. Kind's discussion of it in the text  
17 of his testimony would lead one to believe that the plan was implemented and reflects an  
18 accurate recitation of what ATX does and plans to do. Such a conclusion would be wrong,  
19 and in my opinion Mr. Kind's presentation of it in this fashion is misleading.

20 Regardless, ATX's actual plans do not impact whether Ameren Missouri should  
21 continue its Midwest ISO participation over the next few years, as Ameren Missouri, Staff  
22 and MIEC agree is appropriate on the terms specified in the Non-Unanimous Stipulation and

1 Agreement. Moreover, as noted, accurate information about ATX’s plans in Missouri will be  
2 available in the investigatory docket we are willing to participate in as discussed above.

3 **Q. Mr. Kind also comments on paragraph 10.a in the Non-Unanimous**  
4 **Stipulation and Agreement, and appears to use his comments on that paragraph as a**  
5 **springboard from which to talk further about his contention that Ameren Missouri**  
6 **ought to not be “represented” at the Midwest ISO by Ameren Services personnel. Is**  
7 **there a relationship between that paragraph and that issue?**

8 A. There could be, that is if there was actual evidence that Mr. Kind’s theory held  
9 any water. In that case, OPC could advise the Commission that instances were occurring at  
10 the Midwest ISO where Ameren Missouri’s interests weren’t properly being represented and  
11 that because of this there is a substantial risk that Ameren Missouri’s Midwest ISO  
12 participation had become detrimental to the public interest. The Commission presumably  
13 would then open a docket, if it felt one was warranted, to address the issue.

14 **Q. Does Mr. Kind cite to any such evidence?**

15 A. No, he does not, nor has he done so despite now filing two rounds of  
16 testimony. In fact, he admits that he has provided no such evidence.

17 **Q. Please explain.**

18 A. In his deposition, Mr. Kind stated that his contention that some kind of  
19 “representation” condition ought to be imposed is based upon in what he opined was the  
20 “logical conclusion” that the manner in which Ameren Services and Ameren Missouri  
21 personnel operate at the Midwest ISO today is harmful to Ameren Missouri and its retail  
22 customers’ interests:



1                    *corporation [sic] and other Ameren affiliates were also members of*  
2                    *MISO?*

3

4                    A.        *It seems very difficult to implement.*<sup>4</sup>

5

6                    Q.        *Well, impossible under the current structure?*

7

8                    A.        *It could be.*

9

10                  **Q.        Please summarize your position regarding this “representation” issue.**

11                  A.        Mr. Kind raises nothing new. Both Mr. Haro and I have fully addressed why  
12 the condition that OPC apparently formerly advocated is both unworkable (Mr. Kind agrees)  
13 and unwise. There is no evidence to support such condition; no evidence of a misalignment  
14 of interests; no evidence of any harm to Ameren Missouri or its customers.

15                  **Q.        Does this conclude your supplemental surrebuttal testimony?**

16                  A.        Yes, it does.

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<sup>4</sup> Id. p. 91, l. 19 to p. 92, l. 2.

