

Exhibit No.:
Issue: Non-Payment of Bills, April
2001 Disconnect, May 2001
Agreement
Witness: Charles M. Foy
Sponsoring Party: AmerenUE
Type of Exhibit: Rebuttal Testimony
Case No.: EC 2002-112
Date Testimony Filed: May 31, 2002

REBUTTAL TESTIMONY

OF

CHARLES M. FOY

ON BEHALF OF

AMERENUE

CASE NO. EC-2002-112

St. Louis, Missouri
May 2002

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1 **Q. What is the purpose of your Rebuttal Testimony in this proceeding?**

2 A. To give testimony regarding the status of the Sterling's Market accounts prior to
3 April 2001, the disconnection of one of those accounts, and the agreement reached after
4 disconnection.

5 **Q. Have you read the Direct Testimony filed in this proceeding by Sterling**
6 **Moody, Louis Biernbaum and Brian McNamara?**

7 A. Yes.

8 **Q. Are you familiar with the grocery store which was located in 2001 at 8350**
9 **North Broadway in the City of St. Louis and known as Sterling's Market?**

10 A. Yes.

11 **Q. How are you familiar with Sterling's Market?**

12 A. I became responsible for those accounts classified as AmerenUE's largest
13 commercial accounts in 2000. The senior credit advisors responsible for larger commercial
14 accounts were assigned to my work group in 2000. Sterling's Market was one of those accounts
15 and was a customer with significant arrears.

16 **Q. Who was the senior credit advisor on the Sterling's Market accounts at the**
17 **time?**

18 A. Leroy Ettling.

19 **Q. Did you take any immediate actions with respect to the Sterling's Market**
20 **accounts at the time Mr. Ettling came under your supervision?**

21 A. No.

22 **Q. At some later time, did you discuss those accounts with Leroy Ettling?**

23 A. Yes.

1 **Q. When do you first recall discussing the Sterling's Market accounts with Mr.**
2 **Ettling?**

3 A. In January 2001.

4 **Q. Do you recall what prompted those discussions?**

5 A. I had asked the credit advisors to provide me with a list of all accounts seriously
6 in arrears. I learned that Sterling's Market was one of those accounts.

7 **Q. Please identify Schedule 1 to your testimony.**

8 A. It is an e-mail I sent to Sherry Moschner on January 26, 2001 about Sterling's
9 Market.

10 **Q. When did you prepare Schedule 1?**

11 A. January 26, 2001.

12 **Q. Why did you prepare Schedule 1?**

13 A. To ensure management was aware that we had an account with \$200,000 owed,
14 but collection was doubtful.

15 **Q. Was it your practice in 2001 to prepare e-mails such as Schedule 1?**

16 A. Yes, I did so on sensitive accounts like Sterling's Market which posed significant
17 risk or adverse publicity to AmerenUE. I wanted to memorialize the activity in the account and
18 keep my supervisors informed.

19 **Q. Who is Sherry Moschner?**

20 A. She was Manager of Customer Service, my direct supervisor at the time.

21 **Q. Why did you send Schedule 1 to Ms. Moschner?**

22 A. To ensure she was aware of these accounts which had considerable risk.

23 **Q. Did she respond to your e-mail?**

1 A. Yes.

2 Q. What, if anything, did you do after she responded?

3 A. I spoke to Frank Lefler, who had dealt with the Sterling's Market accounts before.

4 Q. Please identify Schedule 2 to your testimony?

5 A. It is an e-mail I sent to Sherry Moschner on February 20, 2001 in response to an
6 e-mail she had sent me.

7 Q. Why did you send this e-mail to Ms. Moschner?

8 A. To keep her advised of the progress we had in collecting on this customer.

9 Q. Did there come a time in 2001 when you discussed with Mr. Ettling the
10 possible disconnection of service to the Sterling's Market accounts?

11 A. Yes.

12 Q. When did that first occur in 2001?

13 A. Probably in March 2001.

14 Q. What did you discuss with Mr. Ettling?

15 A. That we needed to get a good agreement to pay off the arrears on the accounts and
16 to keep the customer current, or we would disconnect, pending management's approval.

17 Q. What was the reason you considered disconnecting service on the accounts?

18 A. The balance continued to grow, and agreements made to pay weekly were not
19 honored by the customer.

20 Q. In the spring of 2001, what were AmerenUE's policies with respect to the
21 disconnection of service on delinquent commercial accounts?

22 A. We would disconnect any customer in arrears, and whose agreements were not
23 kept, after proper notification had been given.

1 Q. What procedures did AmerenUE follow in 2001 with respect to the
2 disconnection of service on delinquent accounts such as the Sterling's Market accounts?

3 A. If in arrears, we would send a notice warning of disconnection, if payment was
4 not made. If there was no response, we could, and often would, then disconnect the service.

5 Q. Is there a difference between the issuance of a disconnection notice and the
6 issuance of an order to disconnect service?

7 A. Yes.

8 Q. What is the difference?

9 A. The notice is a warning that we would disconnect if payment wasn't made. The
10 order to disconnect actually sends field personnel to cut the service.

11 Q. Does an actual disconnection of service automatically follow the service or
12 delivery of a notice of disconnection?

13 A. No.

14 Q. Why not?

15 A. It depends on the customer's response - is payment made, or are arrangements
16 made to pay in the future, or is a guarantee made to pay in the future? If so, we might decide not
17 to disconnect the service.

18 Q. In the spring of 2001, did Mr. Ettling, as a senior credit advisor, have the
19 authority to issue disconnect notices on commercial accounts such as Sterling's Market?

20 A. Yes.

21 Q. In the spring of 2001, did Mr. Ettling, as a senior credit advisor, have the
22 authority to issue an order to actually disconnect service on commercial accounts such as
23 Sterling's Market?

1 A. Yes, but by practice, he would get the supervisor's approval before issuing the
2 disconnect order. The largest accounts were often key customers or sensitive, so the advisor
3 would advise the supervisor to obtain approval.

4 Q. Did you give any specific instructions to Leroy Ettling in the spring of 2001
5 to issue disconnection notices to Sterling's Market?

6 A. Yes.

7 Q. What specific instructions did you give to Mr. Ettling on the Sterling's
8 Market accounts?

9 A. He was to issue a disconnect notice in early April to try to get the customer to pay
10 something.

11 Q. When did you give him those instructions?

12 A. Early April, 2001.

13 Q. Why did you give Mr. Ettling those instructions?

14 A. The balance on the accounts continued to grow and no progress had been made on
15 bringing down the account balances.

16 Q. Prior to giving Mr. Ettling those instructions, did you discuss the issue with
17 anyone else at AmerenUE?

18 A. Yes, as I recall, I discussed it with Sherry Moschner.

19 Q. When you directed Mr. Ettling to issue disconnection notices to Sterling's
20 Market in early April 2001, what, if any, instructions did you give him with respect to the
21 actual disconnection of service?

22 A. None. We were going to send notices hoping that some significant payments
23 would be made.

1 Q. Why?

2 A. We really did not want to disconnect except as a last resort.

3 Q. Did you give Mr. Ettling any specific instructions as to how the disconnect

4 notices should be served on Sterling's Market?

5 A. I specified to make sure the notices were hand-delivered.

6 Q. Did you give Mr. Ettling any specific instructions as to when the notices

7 should be served on Sterling's Market?

8 A. We wanted them delivered on Tuesday, so as to allow adequate notice, before

9 cutting in the latter part of the week.

10 Q. Can you identify Schedules 3 and 4 to your testimony?

11 A. These are the disconnect notices that Leroy Ettling prepared for the Sterling's

12 Market accounts.

13 Q. Do you know when these notices were served on Sterling's Market in April

14 2001?

15 A. April 10, 2001.

16 Q. Did there come a time in April 2001 when you learned that service to

17 Sterling's Market had been disconnected?

18 A. Yes.

19 Q. What did you learn?

20 A. Mr. Moody called me on the phone to tell me when it was cut on April 10.

21 Q. How many accounts did Sterling's Market have with AmerenUE in April

22 2001?

23 A. Two that were active.

1 Q. How many meters were associated with those two accounts?

2 A. Three meters were associated with the active accounts.

3 Q. How many of the three meters were disconnected on April 10, 2001?

4 A. One.

5 Q. Do you know if the disconnection of service that occurred on April 10

6 happened before or after the delivery of the notices?

7 A. The cut to the one meter occurred before the notices were delivered.

8 Q. Did you intend that there be a disconnection before the notices were

9 delivered?

10 A. No.

11 Q. Did you intend that there be a disconnection of service to the store on April

12 10?

13 A. No.

14 Q. Did you specifically direct that service to Sterling's Market be disconnected

15 on April 10?

16 A. No.

17 Q. To the best of your knowledge, did anyone else at AmerenUE specifically

18 direct that service be disconnected on April 10?

19 A. No.

20 Q. To the best of your knowledge, did anyone else at AmerenUE intend to

21 disconnect service to the store on April 10, 2001?

22 A. No.

1 **Q. Do you know how service came to be disconnected to the one meter at**
2 **Sterling's Market on April 10?**

3 A. There was a communications error which resulted in the order to disconnect being
4 sent to the field that day, instead of two days later.

5 **Q. Please explain what happened?**

6 A. To my knowledge, the disconnect order was posted for April 10, not the 12th as I
7 anticipated.

8 **Q. What day of the week was April 10?**

9 A. Tuesday.

10 **Q. What day of the week was April 13?**

11 A. Friday.

12 **Q. Would AmerenUE have disconnected service to Sterling's Market, or any**
13 **other account, on April 13, 2001?**

14 A. No. It was Good Friday, a company holiday. We do not cut on company
15 holidays.

16 **Q. Did the disconnect notices that were delivered to Sterling's Market on April**
17 **10 identify a specific day on which service would be disconnected?**

18 A. No.

19 **Q. Why not?**

20 A. The disconnect notices state a day after which service may be disconnected, and
21 are good for 11 business days.

22 **Q. Did you have any discussions with anyone from the store on April 10?**

23 A. Yes.

1 **Q. How did those discussions arise?**

2 A. As I indicated, I received a telephone call from Mr. Moody. He told me [fill out
3 **what he said and what you said].**

4 **Q. What, if anything, did you do in response to what Mr. Moody told you?**

5 A. I contacted our meter department and told them we needed to restore power as
6 soon as possible. I also talked to Ron Parks in Revenue Protection to determine how power had
7 been cut that morning.

8 **Q. How long was it before service was restored on the one meter that was**
9 **disconnected at the store on April 10?**

10 A. About three hours.

11 **Q. Do you know why it took three hours to reconnect service?**

12 A. To the best of my knowledge, we had to pull a crew off another job, and the
13 reconnect was more complex than just reinstalling a meter into a base.

14 **Q. In your discussion with Mr. Moody on April 10, did you tell him the**
15 **disconnect notices had been delivered in error?**

16 A. No.

17 **Q. Did you ever discuss the notices that were delivered on April 10 with anyone**
18 **else at the store?**

19 A. No.

20 **Q. In your discussion with Mr. Moody on April 10, did you tell him that the**
21 **disconnect notices which had been delivered to him were being withdrawn or were no**
22 **longer valid?**

23 A. No.

1 Q. Did you ever tell Mr. Moody he could disregard the notices?

2 A. No.

3 Q. Did you tell that to anyone to whom you spoke at the store on April 10 or at
4 any time after that date?

5 A. No.

6 Q. Did you make any promises during your conversation with Mr. Moody on
7 April 10 that service would not be disconnected at a later date?

8 A. No. To the contrary, I recall telling Mr. Moody that he would be disconnected if
9 we did not get a substantial payment.

10 Q. Was service to Sterling's Market disconnected a second time in April 2001?

11 A. Yes.

12 Q. When?

13 A. On April 17.

14 Q. How did service come to be disconnected at the store on April 17?

15 A. I had Leroy issue another cut order, and I called the meter group to tell them we
16 were going to proceed with a cut.

17 Q. How many meters were disconnected on that occasion?

18 A. One.

19 Q. Did you have any discussions with Mr. Moody after the April 10
20 conversation about which you have testified and before the disconnection on April 17?

21 A. Not that I recall.

22 Q. Did you have any discussions with anyone at Sterling's Market between those
23 two events?

1 A. No.

2 Q. Did AmerenUE receive any payments for service to Sterling's Market after
3 your conversation with Sterling Moody on April 10 and before the disconnection of service
4 that occurred on April 17?

5 A. No.

6 Q. At some point in April 2001, did you take responsibility for the Sterling's
7 Market accounts away from Mr. Ettling?

8 A. Yes, sometime after April 10.

9 Q. Please explain what happened.

10 A. I wanted to ensure that this account was handled exactly per management's
11 direction.

12 Q. Was that an unusual situation?

13 A. Yes, but certain accounts would be handled this way if they were very risky or
14 sensitive. I just wanted to try to ensure I controlled as much as possible with this account, since I
15 was responsible.

16 Q. Did you have any discussions with Sterling Moody after service was
17 disconnected on April 17?

18 A. Yes.

19 Q. When was the first discussion you had with Mr. Moody after that
20 disconnection?

21 A. The same day, April 17.

22 Q. What did you discuss with Mr. Moody at that time?

23 A. The payment needed to restore service - \$260,000.

1 Q. Why did you tell him that?

2 A. The amounts owed on his accounts reflected that amount.

3 Q. Please identify Schedule 6 to your testimony.

4 A. It is an e-mail I sent to my boss detailing a conversation I had with Mr. Moody.

5 Q. When did you prepare Schedule 6?

6 A. On April 19, 2001, after I got off the phone with Mr. Moody.

7 Q. Why did you prepare Schedule 6?

8 A. To ensure my supervision knew the latest developments on this customer.

9 Q. Does Schedule 6 accurately reflect your discussions on the phone that day

10 with Mr. Moody?

11 A. Yes.

12 Q. Did Mr. Moody ever call you with an offer to "meet AmerenUE halfway" on

13 the past due bills for Sterling's Market?

14 A. I don't recall him making that kind of offer, but I do remember telling him he

15 could pay \$130,000, make arrangements to pay the arrears and we could reconnect.

16 Q. How did Mr. Moody respond?

17 A. Mr. Moody said he didn't have that kind of money.

18 Q. After April 17, did you have any discussions with third parties about the

19 possibility of having the Sterling's Market accounts put in someone else's name?

20 A. Yes. Numerous persons called wanting to successor the account, but none were

21 legitimate, except the landlord.

22 Q. Please identify Schedule 7 to your testimony.

1 A. This is an e-mail I sent to the Vice President, in order to keep him advised of the
2 latest developments on these accounts, that is, that the landlord wanted to take these accounts in
3 his name.

4 **Q. When did you prepare Schedule 7?**

5 A. Thursday, April 26, after I spoke to the landlord, Mr. Schonlau.

6 **Q. Why did you prepare Schedule 7?**

7 A. To keep management advised of what was occurring on these accounts.

8 **Q. Was it your regular practice in 2001 to document for your files conversations**
9 **you had with persons outside of AmerenUE on accounts such as these?**

10 A. Yes, as I testified, it was a regular practice on accounts I felt were sensitive.

11 **Q. Did you have a discussion with Mr. Schonlau about the Sterling's Markets**
12 **accounts on April 26?**

13 A. Yes.

14 **Q. Who initiated the call?**

15 A. Mr. Schonlau, the landlord.

16 **Q. What did you discuss with Mr. Schonlau?**

17 A. His reasons for wanting to be responsible for the accounts, and who AmerenUE
18 would be willing to take as a successor.

19 **Q. Does schedule 7 accurately state what you and Mr. Schonlau discussed on the**
20 **telephone on April 26?**

21 A. Yes.

22 **Q. How did you arrive at the figure of \$44,000 for a deposit?**

1 A. The tariffs proscribe how deposits can be set - generally, 2 times the highest bill
2 of the prior 12 months.

3 Q. Can you identify Schedule 8 to your testimony?

4 A. Yes, that is the portion of the tariffs dealing with the establishing of deposits.

5 Q. Did you have any discussions with anyone other than Mr. Schonlau and Mr.
6 Moody concerning the Sterling's Market accounts after the disconnection of service that
7 occurred on April 17?

8 A. Yes.

9 Q. Who is Mark Kasen?

10 A. A representative of Gateway Bank.

11 Q. Please identify Schedule 9 to your testimony.

12 A. It is an e-mail I sent to Sherry Moschner, recounting details of conversations I had
13 with Mr. Kasen on May 2.

14 Q. When was Schedule 9 prepared?

15 A. Wednesday, May 2.

16 Q. How was Schedule 9 prepared?

17 A. I wrote it after getting off the phone with Mr. Kasen and then sent the e-mail to
18 Ms. Moschner.

19 Q. Again, was it your practice to prepare documents such as Schedule 9 for your
20 rile to document your conversations with persons outside AmerenUE on accounts such as
21 the Sterling's Market accounts?

22 A. Yes, on sensitive accounts.

23 Q. Does Schedule 9 accurately reflect your discussion with Mr. Kasen?

1 A. Yes.

2 Q. Who initiated the telephone call described in Schedule 9?

3 A. Mr. Kasen.

4 Q. What did you discuss with Mr. Kasen?

5 A. Why Mr. Kasen felt we should reconnect Mr. Moody's service, due to various

6 monies to be given to Mr. Moody.

7 Q. Please identify Schedule 10 to your testimony.

8 A. It is a letter I received from Mr. Kasen making a proposal to reconnect service to

9 Sterling's Market.

10 Q. What did you do when you received this proposal from Mr. Kasen?

11 A. I advised management of the proposal.

12 Q. Did you respond to Mr. Kasen's proposal?

13 A. Not immediately. I believe Sherry Moschner talked to Mr. Kasen about it and

14 then I sent a written response.

15 Q. Please identify Schedule 11 to your testimony.

16 A. That is the letter I sent to Gateway Bank, regarding our view of their proposal to

17 reconnect the accounts.

18 Q. Please explain your response to Mr. Kasen's proposal?

19 A. AmerenUE did not consider the proposal adequate to avoid further losses.

20 Q. What happened after you sent your May 7 letter to Mr. Kasen?

21 A. I spoke to Mr. Kasen on the telephone that same day.

22 Q. Please identify Schedule 12 to your testimony.

1 A. Schedule 12 is an e-mail I sent to my boss and legal to document the conversation
2 I had with Mr. Kasen on May 7.

3 Q. How was Schedule 12 prepared?

4 A. Shortly after hanging up with Mr. Kasen, I sent the e-mail to management.

5 Q. When was Schedule 12 prepared?

6 A. On May 7, after my telephone call with the Bank.

7 Q. Was Schedule 12 prepared in keeping with your practice on this account to
8 document your conversations with outside parties and to keep your supervisors inside
9 AmerenUE informed of what was happening?

10 A. Yes.

11 Q. Does Schedule 12 accurately relate your discussion with Mr. Kasen?

12 A. Yes.

13 Q. What is Schedule 13 to your testimony?

14 A. Schedule 13 is another e-mail from my file that I prepared. This e-mail relates to
15 a telephone conversation I had with Mark Kasen on May 9.

16 Q. When did you prepare Schedule 13?

17 A. Shortly after I had a phone conversation with Mr. Kasen of Gateway Bank.

18 Q. Why did you prepare Schedule 13?

19 A. To keep my supervisor aware of developments in the case.

20 Q. Does Schedule 13 accurately reflect what you discussed with Mr. Kasen on
21 May 9?

22 A. Yes.

23 Q. What did you discuss with him?

1 A. I told him that a meeting to discuss any settlement would not be productive, given
2 how far apart we were on some of the issues.

3 Q. Please identify Schedule 14 to your testimony.

4 A. Schedule 14 is an e-mail I sent to Sherry Moschner documenting a telephone
5 conversation I had with the landlord, Mr. Schonlau, on May 13, 2001.

6 Q. Did you have a conversation with Mr. Schonlau on the telephone that day?

7 A. Yes.

8 Q. Who initiated that call?

9 A. I did, as I recall.

10 Q. When did you prepare Schedule 14?

11 A. Shortly after our conversation on Monday, May 14.

12 Q. Why did you prepare Schedule 14?

13 A. To keep management advised of events surrounding the accounts.

14 Q. Did you prepare Schedule 14 in accordance with your practice of
15 memorializing conversations with third parties on these accounts and to keep others in the
16 company aware of what discussions were occurring?

17 A. Yes.

18 Q. What did you discuss with Mr. Schoulau on May 14?

19 A. Whether he would be responsible for the accounts that were then in the name of
20 Sterling's Market.

21 Q. What was his response?

22 A. He said he thought there was a group of people getting together that would
23 provide funding for Mr. Moody, allowing him to continue as the owner of the store.

1 **Q. Does Schedule 14 accurately set out your discussions with Mr. Schonlau?**

2 A. Yes.

3 **Q. Please identify Schedule 15 to your testimony.**

4 A. Schedule 15 is an e-mail I sent to AmerenUE management, advising them of our
5 position on a successor's deposit.

6 **Q. Did AmerenUE receive \$45,000 on May 14 relating to the Sterling's Market**
7 **accounts?**

8 A. Yes.

9 **Q. Did you know the \$45,000 was coming that day?**

10 A. No.

11 **Q. What did you understand this \$45,000 to represent?**

12 A. A deposit for P&B Real Estate in order for them to become responsible for the
13 accounts.

14 **Q. What did you do with the \$45,000?**

15 A. I held the checks until I could ascertain exactly who the successor would be, since
16 the remittance line on two of the checks identified Sterling's Marketplace.

17 **Q. To your understanding, was the \$45,000 intended to be a deposit by P&B**
18 **Real Estate on both Sterling's Market accounts?**

19 A. Yes.

20 **Q. Why didn't you immediately establish successor accounts using the \$45,000**
21 **as a deposit?**

22 A. Since the remittance lines on two of the checks mentioned Sterling's Marketplace,
23 I was trying to determine if we had a legitimate successor.

1 Q. Did a meeting take place at some point in May 2001 between representatives
2 of AmerenUE and Sterling's Market?

3 A. Yes.

4 Q. What was the purpose of the meeting?

5 A. To discuss arrangements to get service restored to the grocery store, and secure
6 arrangements on the arrears.

7 Q. At whose request was the meeting held?

8 A. Gateway Bank.

9 Q. When did that meeting occur?

10 A. Wednesday, May 16, 2001, I believe.

11 Q. Where did that meeting occur?

12 A. At AmerenUE's general offices.

13 Q. Who was present at the meeting?

14 A. Mr. McNamara, Gateway Bank President, Mark Kasen, Mr. Moody, Sherry
15 Moschner, Harvey Pines, Frank Lefler and myself.

16 Q. Was Burt Schonlau or anyone else from P&B Real Estate present at the
17 meeting?

18 A. No.

19 Q. Did you expect him to attend the meeting?

20 A. Yes. I was surprised he did not attend.

21 Q. How long did the meeting last?

22 A. About three hours.

23 Q. Do you recall what Mr. Moody said during the meeting?

1 A. Only that he said he did not know he owed so much money, he did not have all
2 the bills, and that he thought he was paying for another's electricity.

3 **Q. Do you recall what you said during the meeting?**

4 A. I only recall expressing disbelief that Mr. Moody would wait so long to contest
5 the billing.

6 **Q. Was an agreement reached at the meeting with respect to the outstanding**
7 **bills of Sterling's Market or the reconnection of service to the store?**

8 A. No.

9 **Q. What happened following the meeting?**

10 A. Management discussed what actions to take next.

11 **Q. Please identify Schedule 16 to your testimony.**

12 A. This is an e-mail I sent to Sherry Moschner showing the balances owed on each
13 account, based on Gateway Bank's proposal of settlement.

14 **Q. How was that "account recap" prepared?**

15 A. I used our computerized billing system to look up historical account activity.

16 **Q. Why did you prepare that "account recap?"**

17 A. I wanted to prepare a summary by the account of balances owed, based on
18 Gateway Bank's representation of the dates of Sterling Moody's responsibility.

19 **Q. Assuming the Bank's representation was correct, was there still a**
20 **delinquency on the two accounts?**

21 A. Yes.

22 **Q. To your knowledge, did Mr. Moody dispute that fact?**

23 A. No.

1 **Q. To your knowledge, did Mr. McNamara dispute that fact?**

2 A. No. In fact, even based on the argument he was making for Sterling's Market, he
3 agreed there was a significant balance in arrears.

4 **Q. Please identify Schedule 17 to your testimony.**

5 A. This is an e-mail from my file regarding a conversation I had with Mr. McNamara
6 at the Bank.

7 **Q. When did you prepare Schedule 17?**

8 A. Shortly after our telephone conversation on Thursday, May 17.

9 **Q. Why did you prepare Schedule 17?**

10 A. To keep management advised of the most current developments in this case, as I
11 had been doing in my prior e-mails.

12 **Q. Does Schedule 17 accurately reflect what you discussed with Mr. McNamara**
13 **on May 17?**

14 A. Yes.

15 **Q. What did you discuss with Mr. McNamara on May 17?**

16 A. The amounts he believed Mr. Moody owed, and who would actually benefit from
17 service reconnection. As I said, Mr. McNamara there was a significant delinquency owed by
18 Sterling's Market even using Sterling Moody's numbers. He believed the amount was about
19 \$135,000.

20 **Q. What happened next after your May 17 conversation with Mr. McNamara?**

21 A. Management agreed to terms with Mr. Moody and Mr. Schonlau.

22 **Q. Please identify Schedule 18 to your testimony.**

1 A. It is a copy of the agreement Mr. Harvey Pines, AmerenUE's outside attorney,
2 drafted.

3 **Q. Please explain how this agreement was prepared?**

4 A. The details were worked out between Sherry Moschner and Gateway Bank
5 personnel.

6 **Q. Were you responsible for following the new Sterling's Market and P&B Real**
7 **Estate accounts which were established following the execution of the May 18 agreement?**

8 A. No.

9 **Q. Who was?**

10 A. Frank Lefler was primarily responsible for overall monitoring of compliance with
11 the agreement.

12 **Q. Do you know if P&B Real Estate complied with its part of the agreement?**

13 A. They did not. I do not believe they ever made a payment.

14 **Q. Do you know if P&B Real Estate ever paid any of the bills sent to it for**
15 **service under the account established in P&B Real Estate's name following the May 18**
16 **agreement?**

17 A. No payments were made.

18 **Q. Did Sterling's Market perform its part of the agreement?**

19 A. No. They did pay a current billing, but late, and I do not think they ever paid any
20 arrears.

21 **Q. Does this conclude your rebuttal testimony?**

22 A. Yes.

23

BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

STERLING MOODY, STERLING'S MARKET)
PLACE AND STERLING'S PLACE, I,)

Complainants,)

Case No. EC-2002-112

v.)

AMERENUE, UNION ELECTRIC CO. d/b/a)
AMERENUE, and MIKE FOY, LEROY ETTLING,)
and SHERRY MOSCHNER, as employees of)
AmerenUE,)

Respondents.)

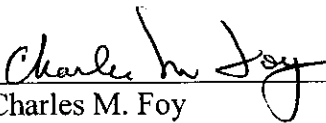
AFFIDAVIT OF CHARLES M. FOY

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

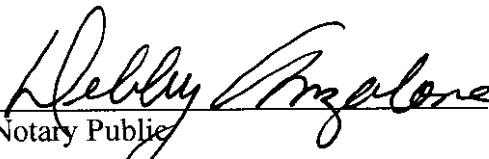
Charles M. Foy, being first duly sworn on his oath, states:

1. My name is Charles M. Foy. I am employed by AmerenUE as a Supervisor,
Credit.
2. Attached hereto and made a part hereof for all purposes is my Rebuttal Testimony
on behalf of AmerenUE consisting of pages I through 23, including Schedules 1 through 18, all
of which testimony has been prepared in written form for introduction into evidence in Missouri
Public Service Commission Case No. EC-2002-112 on behalf of AmerenUE.

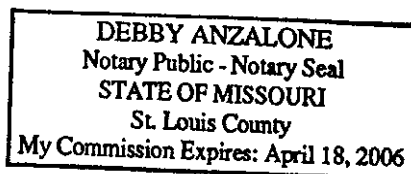
3. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct.


Charles M. Foy

Subscribed and sworn to before me this 30th day of May 2002.


Notary Public

My commission expires:



Foy, Mike

From: FOY, MIKE
Sent: Friday, January 26, 2001 9:59 AM
To: Moschner, Sherry P
Subject: Sterling's MarketPlace- Aged Receivables

Sherry-

Sterling's MarketPlace currently has three CSS accounts, all at the same N. Broadway location, with a combined receivables balance of \$227k. We have no deposits on hand.

Historically, this customer has always been behind on his payments. Furthermore, there is a history of the customer offering checks that are later returned for insufficient funds. Since 1999, we have had 18 NG checks from this customer.

Due to the continued problems with this customer, over the last six months the senior credit representative has had a standing agreement with the customer that payments will be made twice a week. Payments have been random in frequency, and usually not enough to cover even the current billing. Most recently, in December of 2000, we received 3 payments, 2 for \$2000, and 1 for \$1500. The 2 checks for \$2000, totaling \$4,000, were returned for insufficient funds.

It should be noted that, according to a Sterling's executive, this customer is in negotiations with the City of East St Louis, in answer to that city's request that Sterling's open a new store there. If this were to happen, Ameren would have another premise operated by this same customer. I therefore believe it is important that we more aggressively pursue payment, perhaps even through service cuts. Of course, we would need to provide Ameren's corporate communications group with full details and background information if it were decided to take this stance.

Please advise as to how you wish us to proceed.

Thank you.

FOY
SCHEDULE 1

FOY, MIKE

From: FOY, MIKE
Sent: Tuesday, February 20, 2001 6:54 AM
To: Moschner, Sherry P
Subject: RE: Sterling's MarketPlace- Aged Receivables

Customer brought in \$2k two weeks ago, but we received no checks this past week as he had said we would. We probably ought to wait and see what happens the rest of this month before deciding what stronger actions we might want to pursue.

-----Original Message-----

From: Moschner, Sherry P
Sent: Friday, February 16, 2001 11:17 PM
To: FOY, MIKE
Subject: RE: Sterling's MarketPlace- Aged Receivables

Where are we with this account?

SPM

-----Original Message-----

From: FOY, MIKE
Sent: Friday, January 26, 2001 9:59 AM
To: Moschner, Sherry P
Subject: Sterling's MarketPlace- Aged Receivables

Sherry-

Sterling's MarketPlace currently has three CSS accounts, all at the same N. Broadway location, with a combined receivables balance of \$227k. We have no deposits on hand.

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Please advise as to how you wish us to proceed.

Thank you.

AmerenUE

One Ameren Plaza
1901 Chouteau Avenue
PO Box 66149
St. Louis, MO 63166-6149
314.621.3222

April 9, 2001

HAND DELIVERED

Sterlings Marketplace 1, Inc.
Attn: Sterling Moody
8350 N. Broadway
St. Louis, MO 63147

RE: Delinquent Balance \$79,750.34
due 3/16/01



FINAL NOTICE

Dear Mr. Moody:

This letter will serve as a final reminder to save you the inconvenience of being without service.

Please pay the amount shown above within 48 hours after receipt of this notice, otherwise, your service will be subject to disconnection without further notice, after April 11, 2001.

Sincerely,

L. Ettling
Sr. Credit Advisor
(314) 992-6788

ssm

Acct. #52300-02426

AmerenUE

One Ameren Plaza
1901 Chouteau Avenue
PO Box 66149
St. Louis, MO 63166-6149
314.621.3222

April 9, 2001

HAND DELIVERED

Sterlings Marketplace 1, Inc.
Attn: Sterling Moody
8350 N. Broadway
St. Louis, MO 63147

RE: Delinquent Balance \$113,574.36
due 3/16/01



FINAL NOTICE

Dear Mr. Moody:

This letter will serve as a final reminder to save you the inconvenience of being without service.

Please pay the amount shown above within 48 hours after receipt of this notice, otherwise, your service will be subject to disconnection without further notice, after April 11, 2001.

Sincerely,

L. Ettling
Sr. Credit Advisor
(314) 992-6788

ssm

Acct. #57300-01916

P. S. C. MO., ILL. C. C., IA. ST. C. C. SCHEDULE NO. 5 2nd Revised SHEET NO. 182CANCELLING SCHEDULE NO. 5 1st Revised SHEET NO. 182APPLYING TO MISSOURI SERVICE AREAGENERAL RULES AND REGULATIONSVII. DISCONNECTION AND RECONNECTION OF SERVICE

will inform the occupants of their right, under state law, to initiate a receivership procedure.

C. Residential Customer Contact and Notice of Disconnection

At least 24 hours preceding disconnection of service, the Company will make reasonable efforts to contact a residential customer to advise of the pending action and what steps must be taken to avoid disconnection. Immediately preceding the disconnection of service, the Company employee or agent designated to perform such function will, except in individual situations where the safety of the employee or agent may be a consideration, make a reasonable effort to contact and identify himself to the customer or responsible person at the premises to announce his purpose. When service is disconnected, the Company employee or agent will leave a notice at the premises in a manner conspicuous to the customer that service has been disconnected and the Company address and telephone number where the customer may arrange to have service restored.

D. Notice of Intent to Disconnect Non-Residential Service

Notice of intention to disconnect service for a non-residential customer under this rule shall state the reason for which service will be disconnected and shall specify a date after which such disconnection may be effected, and such notice shall be mailed to or served upon customer not less than 48 hours prior to such date.

*E. Disconnection Hours

Company will disconnect electric service between the hours of 8:00 a.m. and 4:00 p.m. on the date specified on the notice of disconnection or within eleven (11) business days thereafter.

F. Delay of Disconnection for Medical Reasons

The Company will postpone the disconnection of service to a residential customer for a time not in excess of 21 days if the Company is advised the disconnection will aggravate an existent medical emergency of the customer, a member of his family or other permanent resident of the premises. The Company may require a customer to provide satisfactory

*Indicates Change

P.S.C. Mo. DATE OF ISSUE October 7, 1994DATE EFFECTIVE November 6, 1994

ILL. C.C. DATE OF ISSUE _____

DATE EFFECTIVE _____

IA. ST. C. C. DATE OF ISSUE _____

DATE EFFECTIVE _____

ISSUED BY C. W. Mueller
NAME OF OFFICERPresident & CEO
TITLESt. Louis, Missouri

Skiera, Dena L

From: FOY, MIKE
Sent: Thursday, April 19, 2001 3:10 PM
To: Moschner, Sherry P; Mullenschlager, Joseph E
Cc: Zdellar, Ronald C; Cowan, Otis; Gallagher, Susan L; Cook, James J; Hale, D Kathy; Gendron, Lisa K
Subject: Sterling's

I spoke to Mr. Moody at 2:45 and expressed our interest in working with him through his problem. I told Mr. Moody that Ameren would restore power if he could provide \$130k payment, and promise to stay current, as well as pay off the remaining arrears over time.

He said this couldn't be done, as he could not get \$130k. I told him to call me if he found some way to "meet us halfway".

FOY
SCHEDULE 6

Skiera, Dena L

From: Foy, Mike
Sent: Thursday, April 26, 2001 2:43 PM
To: Zdellar, Ronald C
Cc: Moschner, Sherry P; Gendron, Lisa K; Karman, Laurie; Cook, James J; Cowan, Otis; Gallagher, Susan L; Smith, Kay
Subject: Sterling's
Importance: High

I have received a request from P & B Real Estate, the landlord of the shopping center where Sterling's is located, to take over the accounts that were in Sterlin'g name, and to reconnect power.

Mr. Schoenwald, the owner P & B, stated that with Sterling's dark, no one on the street can tell the shopping center is open, and the other tenants are complaining that no one is shopping, and that he is violating his lease with them due to inadequate lighting, etc.

We intend on asking Mr. Schoenwald for a deposit- \$44k, (\$22k for highest month times 2) in order for him to be a successor on both the Sterlin'gs accounts. If we reconnect, we will do so either tomorrow or Monday.

Please let me know if any of you have any reasons we should not reconnect the service, in the new party's name.

Let me know of questions, or call me at 6-0885.
Thanks

FOY
SCHEDULE 7

P. S. C. MO., ILL. C. C., IA. ST. C. C. SCHEDULE NO. 5 2nd Revised SHEET NO. 177CANCELLING SCHEDULE NO. 5 1st Revised SHEET NO. 177

APPLYING TO

MISSOURI SERVICE AREA

GENERAL RULES AND REGULATIONSVI. DEPOSIT PRACTICES

- a. The service of the customer has been disconnected for nonpayment of a delinquent account not subject to a bona fide dispute;
- b. The customer has in an unauthorized manner tampered with the Company's facilities or interfered with or diverted the service of Company situated on or about or delivered to the customer's premises;
- *c. The customer has failed to pay an undisputed bill on or before the delinquency date for five billing periods out of twelve consecutive billing periods; provided, however, that deposit requirements during the months of November, December, and January for reasons other than unauthorized use or diversion of service, may, if the customer is unable to pay the entire deposit, be paid by installments over a six month period, unless the Company can show a likelihood that the customer does not intend to pay for continued service. The Company shall not assess new deposits nor bill previously assessed deposits to customers who enter into and make timely payments in accordance with the Missouri Public Service Commission's "Cold Weather" rule.
- **d. Prior to requiring a customer to post a deposit, Company shall send the customer a written notice explaining the Company's right to require a deposit or include such explanation with each written discontinuance notice.

B. Non-Residential Customers

Company may at any time, as a condition to furnishing or continuing service, require any customer or applicant for non-residential service to make a cash deposit or, at Company's option, furnish a personal guarantee of a responsible party with established credit satisfactory to Company.

C. General Provisions

- *1. Deposit limits - A deposit for initial service will not exceed the charges applicable for one-sixth (1/6) of the estimated annual bill for residential customers, and usage during one estimated maximum monthly billing period plus thirty days for non-residential customers. When a deposit is required as a

*Indicates Change **Indicates Addition

P.S.C. Mo. DATE OF ISSUE October 7, 1994DATE EFFECTIVE November 6, 1994

ILL. C.C. DATE OF ISSUE _____

DATE EFFECTIVE _____ FOY

IA. ST. C.C. DATE OF ISSUE _____

DATE EFFECTIVE _____ SCHEDULE 8-PAGE 1

ISSUED BY C. W. Mueller
NAME OF OFFICERPresident & CEO
TITLESt. Louis, Missouri
ADDRESS

GENERAL RULES AND REGULATIONSVI. DEPOSIT PRACTICES

condition for continued service, the deposit will not exceed two times the highest bona fide undisputed bill of that residential or non-residential customer during the preceding twelve months. All deposit levels referred to herein will be established based upon usage levels and associated billings applicable to periods representative of actual meter readings and undisputed billing amounts.

2. Deposit refunds - The credit of the residential customer will be established and the deposit and accrued interest, if any, will be refunded, or the guarantor released, upon satisfactory payment before the delinquency date of all proper charges for service for a period of twelve successive months, or customer has closed its account. The credit of the non-residential customer will be reviewed after three years and the deposit returned if in the opinion of the Company, the customer has established satisfactory credit. The Company may withhold refund of the deposit or release of the guarantor pending the resolution of a matter in dispute involving disconnection for nonpayment or unauthorized interference by the customer. The Company may apply all deposits subject to refund and accrued interest, if any, against undisputed utility charges provided the amount of the refund is identified and disclosed on the bill.

- *3. Interest paid on deposits - Interest at the rate of 9.5 percent per annum, compounded annually, will be credited annually upon the account of the customer or paid upon the return of a residential deposit, whichever occurs first. Simple interest at the rate of 9.5 percent per annum will be payable upon the return of a non-residential deposit held by the Company for six months or longer. Interest shall not accrue on a cash deposit after the date the deposit is applied to the customer's account, or Company has made a reasonable effort to return the deposit to customer by mailing the deposit to customer's last known address.

*Indicates Change

P.S.C. Mo. DATE OF ISSUE January 9, 1998

DATE EFFECTIVE February 18, 1998

ILL. C.C. DATE OF ISSUE _____

DATE EFFECTIVE _____ FOY

IA.ST.C.C. DATE OF ISSUE _____

DATE EFFECTIVE _____ SCHEDULE 8-PAGE 2

ISSUED BY C. W. Mueller
NAME OF OFFICER

President & CEO
TITLE

St. Louis, Missouri
ADDRESS

Skiera, Dena L

From: Foy, Mike
Sent: Wednesday, May 02, 2001 10:54 AM
To: Moschner, Sherry P
Cc: Cowan, Otis; Gallagher, Susan L; Cook, James J; Karman, Laurie; Gendron, Lisa K; Zdellar, Ronald C
Subject: Sterling's

Mr. Kasen of Gateway Bank called, and explained that there is now a consortium that will provide for payment of Moody's bills, backed by a state grant. He wanted to meet with Ameren personnel to present the proposal. I asked that before we have any meeting, we receive in writing details of the proposed payment terms on the arrears, and particulars of who would be responsible going forward. He indicated he would send this to us very shortly. He also told me that the landlord plans to successor the account, so that Sterling can operate the store. I find the statement regarding state funds interesting as well, because the Office of Economic Development made no mention of this last week when they called me.

I'll keep you advised of any further developments, or please call me at 6-0885 if you have any questions.

FYI-

**GATEWAY NATIONAL BANK**

3412 North Union Boulevard
St. Louis, Missouri 63115
(314) 389-3000

To: Mike Foy
From: Mark Kasen
Re: Sterling's Market
Date: May 2, 2001

Mike:

Gateway National Bank is working with the State of Missouri and the St. Louis Minority Business Council in order to set up working capital for Sterling's Market in order to re-open the store. The Ameren UE issue obviously needs to be resolved as part of the deal.

We are suggesting the following:

1. Immediate payment of \$20,000 deposit in order to restart the electric under the current landlord. This new service will not in any way deny any previous bills owed by Sterling's Market.
2. The landlord will be guaranteeing future monthly payments, on time every month.
3. We will meet with you in order to agree to a monthly payment in order to address any previous unpaid balances.

We are looking forward to a meeting which would include Brian McNamara, the bank president; Bert Schonlau, the landlord, and Sterling Moody, owner of Sterling's Market. We believe that there is a solution in all of this for you which will guarantee that you will be kept current on the new electric account, while at the same time addressing the past balances in a responsible manner. The details of such an agreement addressing the past balances will depend on the total amount owed and any requirements that you set.

WE NEED TO BE CAREFUL IF SCHONLAU IS SUCCESSOR THAT WE ARE NOT
STUCK IF/WHEN HE SELLS SHOPPING CENTER.

May 7, 2001

Mr. Mark Kasen
Gateway Bank
3412 North Union Blvd.
St Louis, MO 63115

Dear Mr. Kasen:

Regarding your proposal for service of Sterling's Market, while appreciative of your efforts, we find that we must reject the conditions offered.

First, you propose that the deposit to restore service be set at \$20,000. As stated to the landlord the week of April 29, 2000, the deposit for both accounts now in Sterling's name is \$45,000.

Second, you propose the landlord guarantee future payments, but no documentation of what would constitute this guarantee is offered. In reality, the only guarantee offered to Ameren is the deposits discussed above.

Third, you proposed that we meet to mutually agree on terms to pay the arrears. As indicated in our previous conversations, Ameren is certainly interested in reviewing an agreement to pay arrears. However, Mr. Moody's account history includes significant unpaid service billings, payments returned for insufficient funds and agreements to make partial payments that were never honored. If Mr. Moody will authorize us to discuss his account history with you, we would be happy to provide the specific details for your review.

Ameren remains willing to accept \$130,000 as a partial payment of the arrears. Ameren also remains willing to enter into a payment arrangement for the remainder of the arrears providing there is a substantive guarantee that the arrangement will be honored.

We look forward to concluding this matter in a satisfactory manner as soon as possible.

Sincerely,

Mike Foy
Customer Contact Center

MF:ssm



Foy, Mike

Subject: FW: Gateway Bank

-----Original Message-----

From: Foy, Mike
Sent: Monday, May 07, 2001 12:31 PM
To: Cook, James J; Moschner, Sherry P
Subject: Gateway Bank

Mr. Kasen has called, and explained that the \$45,000 is not an appropriate deposit, as a part is due to usage in the common areas. He wants to pay the deposit only on the account that has had service cut. This would be \$23,800. The other account would be in the landlord's name any way, and based on his payment history, Ameren should deal directly with Schonlau if we want deposits on any of this customer's accounts. I, after explaining that the wiring inside the mall was not Ameren's responsibility, said we could not determine what portion is attributable to the market. Mr. Kasen then asked if I wanted to make this deal, or if I wanted to break it !???!

Mr. Kasen asked for a meeting, here at Ameren, to discuss getting the agreement worked out. He stated that the bank will, in terms of any arrangement to pay off the arrears, guarantee that Ameren will get its money first, as the bank will take that payment directly from Sterling's deposits and transfer the funds to Ameren. (I did not ask what happens if Moody does not deposit anything)

Let me know how you want me to proceed.

Foy, Mike

From: Foy, Mike
Sent: Wednesday, May 09, 2001 11:03 AM
To: Moschner, Sherry P
Cc: Cook, James J; Karman, Laurie; Gendron, Lisa K; Zdellar, Ronald C; Cowan, Otis; Gallagher, Susan L
Subject: Sterling's

Mark Kasen from Gateway Bank continues to call to press for a face to face meeting with him, Moody, and the landlord, Bert Schonlau. I told him today, (verifying with him he had received our letter) that we appeared to be so far apart on the issues that there was no reason to meet. He asked what they needed to do, and I said pay the deposit of \$45,000, and pay off the arrears. He said that the arrangement he had in mind was to pay off the arrears at a rate of \$2500/month. This equates to a nine year payout! I told him I would advise all involved departments and call him back later this week.

I continue to provide periodic updates to Rep. Wm. Clay's office, as requested by one of his staff, Willa Massey. This morning I simply reported that no progress had been made, as we were still waiting for a successor to come forward with the deposits required.

Solomon Rooks continues to call, and,..... well, we all know Solomon Rooks

Please advise of any questions, or call me at 6-0885.

Moschner, Sherry P

From: Foy, Mike
Sent: Monday, May 14, 2001 9:02 AM
To: Moschner, Sherry P
Cc: Cowan, Otis; Gallagher, Susan L; Karman, Laurie; Gendron, Lisa K; Cook, James J; Zdellar, Ronald C; Ettling, Leroy W; Remstedt Jr, Luke H
Subject: Sterling's
Importance: High

I talked to Bert Schonlau, landlord of the shopping center, this morning, asking if he were going to successor the account today, as Mark Kasen of Gateway Bank had said in an earlier call to my office.

Bert said that a meeting was held Friday, regarding getting Moody solvent. The meeting included Bert, a senior IRS representative, as well as Joe Driscoll- Mo Economic Development, the mayor's office representative, state representatives, the bank, and a major investor (Ram's football player), and a deal will be done by probably Wednesday night. Mr. Schonlau said the player has a lot of money he is willing to provide, and is committed to this.

I plan on allowing the pending cut to continue, even if we end up restoring power on Wednesday or Thursday.

Let me know of questions.

Skiera, Dena L

From: Foy, Mike
Sent: Monday, May 14, 2001 3:31 PM
To: Cowan, Otis; Gallagher, Susan L; Moschner, Sherry P; Karman, Laurie; Gendron, Lisa K
Cc: Ettling, Leroy W; Cook, James J; Zdellar, Ronald C
Subject: Sterling's

We received \$45,000 from P&B (Bert Schonlau) to successor Sterling's. The deposit will cover us for approximately 2 months of future service. We will now try to get agreement on payment of the arrears, from Mr. Moody.

Let me know of questions

Skiera, Dena L

From: Foy, Mike
Sent: Wednesday, May 16, 2001 4:49 PM
To: Moschner, Sherry P
Subject: Sterling's Recap

Attached is the summary



sterling recap.xls

Moschner, Sherry P

From: Foy, Mike
Sent: Thursday, May 17, 2001 5:03 PM
To: Moschner, Sherry P
Cc: Cowan, Otis; Lefler, Franklin P
Subject: Sterling's

I spoke to Brian McNamara of Gateway Bank regarding the schedules we had forwarded to his office. During the course of our discussion, he indicated that per his analysis, Mr Moody owes \$135k. This number is derived by his understanding of the dates Moody actually was an owner, and his belief that approximately 50% of the one account (57300-01916) is attributable to the store, the remainder being common area usage. His idea would be to take the \$45k deposit, apply half to the arrears and leave half as security for future use. This would leave \$112.5 in arrears to be paid out over approximately 5 years.

We also spoke about Mr. Schonlau's PSC complaint, with me expressing my belief that this would only slow down any progress we might gain in getting service restored. I asked McNamara if Schonlau was to be the owner, given Schonlau's actions. McNamara assured me, in very strong terms, that it was Moody who was to be the owner. He also spoke about a state grant, that was available to his bank that could be used for the 8350 N. Broadway shopping center. He indicated however, that it was up to him as to whether Schonlau would be the recipient, and he was not sure that he wanted Schonlau to get this grant.

Mr McNamara asked how soon power could be restored if we agreed on terms of what we had been discussing on Wednesday, 5/16. I told him that if we were to have a written agreement, signed by both parties, we could have power on in the usual one to two days.

Let me know of questions.

May 18, 2001

Sterling Marketplace I, Inc.
c/o Sterling's Market
8350 North Broadway
St. Louis, Missouri 63147
Attention: Mr. Sterling Moody

P. & B. Real Estate, L.L.C.
8540 North Broadway
St. Louis, Missouri 63147
Attention: Mr. Engelbert Schonlau



Re: Dispute with respect to Meter Numbers 01859500,
50688215 and 70593313

Gentlemen:

This letter agreement (this "Agreement") sets forth the terms of the agreements reached between AmerenUE ("UE"), Sterling Marketplace I, Inc. ("Sterling") and P. & B. Real Estate, L. L. C. ("P. & B.") in connection with any and all disputes among such parties regarding amounts past due and owing to UE for utilities provided by UE to Sterling and P. & B., as evidenced by the readings shown on the electricity meters identified in the caption above.

With respect to meter numbers 01859500 and 50688215 and the corresponding account numbers 52300-02426 and 52300-02417 (hereinafter collectively referred to as the "Sterling Account"), Sterling hereby acknowledges and agrees that it is delinquent in the payment to UE of the sum of \$89,000.00 (the "Sterling Settlement Amount"). Sterling further agrees that commencing one month after the date of this Agreement, Sterling shall make consecutive monthly payments of \$2,000.00 per month (in addition to the regular monthly bill for services from UE), payable to UE by cashier's or certified check, such payments to be made on or before the due date of each regular monthly bill for services from UE, until such outstanding balance of \$89,000.00 is paid in full. Sterling further agrees that from the date of this Agreement, Sterling shall be solely responsible for the timely payment to UE of any charges incurred in connection with meter numbers 01859500 and 50688215. In the event Sterling is delinquent in its payments of any sums owed in connection with the payment to UE of the Sterling Settlement Amount or any and all future payments for charges incurred on the Sterling Account, UE reserves the right to discontinue all service under the Sterling Account without incurring any liability whatsoever to Sterling.

UE expressly reserves the right to collect any and all amounts outstanding and past due in excess of the Sterling Settlement Amount, and owed according to meter numbers 01859500 and/or 50688215, from any third parties that UE determines are responsible for such amounts outstanding and past due.

With respect to meter number 70593313 (the "Common Area Meter") and the corresponding account number 57300-01916 (the "Common Area Account"), it is agreed by the parties to this Agreement that commencing on the date hereof, payment of the charges incurred as shown on the Common Area Meter shall be the sole responsibility of P. & B. and that the name now shown on the Common Area Account shall be changed to be in the name of "P. & B. Real Estate, L.L.C."

Sterling and P & B hereby agree and acknowledge that \$124,526.06 is past due and owing to UE in connection with charges incurred to date as recorded on the Common Area Meter, and that Sterling and P. & B. shall be responsible only for the payment to UE of \$45,000.00 of such amount past due and owing (the "Common Area Settlement Amount"). It is acknowledged by the parties to this Agreement that Sterling and P& B have heretofore delivered to UE checks totaling \$45,000, however, notwithstanding the use of the words "successor accounts for P. & B. Real Estate" as appearing on that certain handwritten receipt, dated May 14, 2001, and signed by a representative of UE, Sterling and P.&B. hereby agree that the following checks delivered to UE on May 14, 2001, shall be applied only to the payment of the Common Area Settlement Amount:

Cashier's check #4406406972, dated May 10, 2001, in the amount of \$12,500.00;

Cashier's check #4406406993, dated May 14, 2001, in the amount of \$2,500.00; and

Check # LD 009275, dated May 14, 2001, in the amount of \$30,000.00.

(A copy of the above checks are attached to this Agreement as Exhibit "A".)

In the event Gateway National Bank does not honor any of the above listed checks, UE reserves the right to discontinue all service under the Common Area Account without incurring any liability whatsoever to Sterling and/or P. & B.

UE expressly reserves the right to collect any and all amounts outstanding and past due in excess of the Common Area Settlement Amount, and owed according to meter number 70593313, from any third parties that UE determines are responsible for such amounts outstanding and past due.

The parties hereto acknowledge and agree that there is an existing deposit in the amount of \$9,493.00 in the Common Area Account and that UE shall transfer such deposit to the Sterling Account.

The parties hereto agree to withdraw any complaints currently pending before the Missouri Public Service Commission (MPSC).

If you are in agreement with the terms and conditions contained in this Agreement, please indicate so by signing this Agreement and returning it to the undersigned. Once Sterling and P. & B. have signed this Agreement, UE shall restore the service it has heretofore discontinued.

Sincerely,
AmerenUE

By: Frank Reple

Agreed to this 18th day of May, 2001.

STERLINGS MARKETPLACE I, INC.

By: [Signature]

P. & B. REAL ESTATE, L.L.C.

By: Burt S. Schenck



4-144/810

No.LD 009275

GATEWAY NATIONAL BANK

ST. LOUIS, MISSOURI

DATE May 14 19 2001

PAY TO THIRTY THOUSAND AND NO/100 ***** MOUNT \$30,000.00
 THE ORDER OF AMEREN UE

AMEREN UE

GATEWAY NATIONAL BANK

LOAN DISBURSEMENT
FOR P & B REAL ESTATE LLC

REQUIRES TWO SIGNATURES

THE BACK OF THIS DOCUMENT CONTAINS AN ARTIFICIAL WATERMARK - HOLD AT AN ANGLE TO VIEW.

⑈081001442⑈ 13⑈144⑈9⑈

**GATEWAY NATIONAL BANK**

0810

4406406993

CASHIER'S CHECK

22-1676
960DATE May 14, 2001

PAY **PAY EXACTLY** **2,500** DOL 00CTS

2,500.00

TO THE ORDER OF
AMEREN UE

STERLING MARKET PLACE

REMITTER:
 PAYABLE THRU
 FIRSTAR BANK OF MINNESOTA, N.A.
 ST. PAUL, MN

Lisa Gates Perry
 AUTHORIZED SIGNATURE

⑈096016765⑈00440 64069930⑈

**GATEWAY NATIONAL BANK**

0810

4406406972

CASHIER'S CHECK

22-1676
960DATE May 10, 2001

PAY **PAY EXACTLY** **12,500** DOL 00CTS

12,500.00

TO THE ORDER OF
AMEREN UE

STERLING MARKETPLACE

REMITTER:
 PAYABLE THRU
 FIRSTAR BANK OF MINNESOTA, N.A.
 ST. PAUL, MN

Lisa Gates Perry
 AUTHORIZED SIGNATURE

⑈096016765⑈00440 64069723⑈

FOY
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