

- b. AmerenUE's purported failure to timely change complainant's billing rate in 2000 from its Large General Service rate to the Small General Service rate;
- c. claims that twenty specific bills were estimated and should not have been;
- d. claims of inaccurate and/or improper billing with respect to eleven specific bills issued by AmerenUE to complainant during the period from July 1996 to April 2000 (which bills were identified and attached as Schedules to the Direct Testimony);
- e. alleged incorrect meter rental charges for the period from August 1995 to August 1997; and
- f. AmerenUE's alleged refusal to accept a reduced deposit from complainant in August 1995.

4. In its Surrebuttal Testimony, complainant has raised several new claims about additional purportedly "erroneous" or inaccurate bills, none of which were referenced in its Direct Testimony. This improper surrebuttal is found in the Surrebuttal Testimony of Mark Finney at page 5, line 22 through page 6, lines 1-5 and in the Surrebuttal Testimony of Bradley Brown at page 8, lines 1-22, page 9, lines 1-22, page 10, lines 1-14, page 11, lines 8-9 and page 13, lines 1-8; including Schedules 2-23.

5 Pursuant to 4 CSR 240-2.130(7)(D), "Surrebuttal testimony shall be limited to material which is responsive to matters raised in another party's rebuttal testimony." AmerenUE's Rebuttal Testimony responded directly to the specific bills identified and criticized in complainant's Direct Testimony. Had complainant wanted to raise issues concerning the bills which are identified for the first time in its Surrebuttal Testimony, it

had an opportunity to do so in its Direct Testimony. In essence, complainant is seeking to supplement its Direct Testimony, which is not permitted except by order of the presiding officer or the Commission. See 4 CSR 240-2.130(8).

6. As a result of complainant having raised issues about new and different bills for the first time in its Surrebuttal Testimony, AmerenUE has been deprived of its opportunity to respond to those new claims. As complainant has failed to comply with 4 CSR 240-2.130(7), this Surrebuttal Testimony should not be allowed into evidence at the hearing of this case.

WHEREFORE, AmerenUE respectfully objects to the Surrebuttal Testimony set forth in paragraph 4 hereof and moves that such Surrebuttal Testimony be stricken when and if such testimony is offered into evidence in this case.

Respectfully submitted,

HERZOG, CREBS & MCGHEE, LLP

By: Michael A. Vitale / sh
Michael A. Vitale - #30008
515 North Sixth Street, 24th Floor
St. Louis, Missouri 63101
314-231-6700 – Telephone
314-231-4656 – Facsimile

and

James Cook, MBE #22697
Managing Associate General
Counsel
Ameren Services Company
One Ameren Plaza
1901 Choteau Avenue
P.O. Box 66149
St. Louis, MO 63166-6149

Attorneys for Respondent AmerenUE

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Respondent AmerenUE's Motion to Strike Surrebuttal Testimony was sent by facsimile and first class mail, postage pre-paid this 30th day of April 2002 to Paul H. Gardner, Goller, Gardner & Feather, P.C., 131 E. High Street, Jefferson City, MO 65101, Attorneys for Claimant and mailed, first class postage pre-paid Lera Shemwell, Associate General Counsel, Missouri Public Service Commission, P.O. Box 360, Jefferson City, Missouri 65102 and Office of Public Counsel, P.O. Box 7800, Jefferson City, Missouri 65102.

Michael A. Vitale /dh