

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

In the Matter of the Tariff Filings of Union)
Electric Company, d/b/a Ameren Missouri, to) Case No. ER-2011-0028
Increase Its Revenues for Retail Electric Service.)

**AMEREN MISSOURI’S RESPONSE TO STAFF’S REQUEST
FOR RULINGS ON THE OBJECTIONS FROM THE
DEPOSITION OF LENA MANTLE ON APRIL 25, 2011**

COMES NOW Union Electric Company d/b/a Ameren Missouri (“Ameren Missouri”), and for its Response to the above-cited request (“Staff’s Request”), states as follows:

1. Staff has now three times¹ sought to obstruct the Company’s rights under the Missouri Rules of Civil Procedure to obtain discovery of information that is relevant to the subject matter of this rate case or that is reasonably calculated to lead to the discovery of admissible evidence. Mo. R. Civ. P. 56.01(b). The Commission properly rebuked the Staff’s attempts to interfere with the Company’s discovery rights the first two times, and should do so again.

2. In her surrebuttal testimony Staff witness Lena Mantle made (among others) the following new claims in support of her proposal to change the sharing percentage in the Company’s fuel adjustment clause (“FAC”):

- a. That Ameren Missouri had “repeatedly misrepresented information”;
- b. That Ameren Missouri “failed to inform the Staff that it had incorrect assumptions”;

¹ See Staff’s Motion to Quash Deposition, Staff’s Motion for Clarification, and the instant motion, Staff’s Request for Rulings on the Objections from the Deposition of Lena Mantle on April 25, 2011.

- c. That Ameren Missouri has “made changes in information it was reporting to Staff without informing Staff of the changes and it did not take issue with Staff testimony in a rate case”;
- d. That the “Staff should be able to use . . . loads Ameren Missouri submitted [under] 4 CSR 240-3.190(1)(C) . . . “ to determine NBFC rates;
- e. That Ameren Missouri “without notifying Staff . . . much earlier changed its monthly 4 CSR 240-3.190(1)(C) data . . .”; and
- f. That because of this alleged change “Staff conducted its analyses in both Case No. ER-2007-0002 and Case No. ER-2008-0318 using Net System Output instead of Net System Input” and the Company did not “notify Staff that what Staff had used was actually Net System Output.”

Most if not all of these new claims were made in the context of her discussion of the error in calculating the NBFC rates in Case No. ER-2008-0318, which is now the subject of the Company’s first FAC true-up docket, Case No. ER-2010-0274.

3. During the April 25 deposition, Staff Counsel “objected” to:

any question that is based upon the Cost of Service Report, her direct testimony, as that is information that was available at her first deposition and according to the Commission order issued on April 21st, 2011, Ms. Mantle’s deposition I believe should be limited to any new allegation or new positions set out for the first time in her surrebuttal. So if we’re going to be referring to her direct testimony, I will be objecting to all of those questions as Mr. Byrne had full opportunity to question her.²

4. Staff counsel did not direct Ms. Mantle not to answer the undersigned counsel’s questions, so the undersigned counsel did not seek a conference or ruling from the Regulatory Law Judge at the time of the deposition, but indicated that such a conference would be necessary if Staff counsel did direct her not to answer.³

² Mantle Deposition, April 25, 2011, p. 6, lines 7-17.

³ Given that Ms. Mantle’s new allegations were not made until late in the day on Friday, April 15, Monday April 25 was the first opportunity to depose Ms. Mantle given the 7-day notice requirement of Mo. R. Civ. P. 57.03(b).

5. It is impossible to tell from the Staff's Request precisely what questions and answers the Staff contends were objectionable. The ordinary practice would be for the Staff to designate, by page and line number, that portion of the deposition transcript to which the Staff contends it has lodged a valid objection. Staff should be required to make such designations. Otherwise, it is very difficult for the Company and the Commission alike, to properly consider the merits of the objections. Despite the lack of proper designation of the specific testimony to which the Staff objects, the general basis for the Staff's objection seems apparent. That basis is invalid as both a matter of law and fact.

6. It appears that the Staff's principal complaint is that the undersigned counsel questioned Ms. Mantle extensively about facts that are at issue in Case No. ER-2010-0274, and that is true. As noted, most of Ms. Mantle's new allegations relate to the calculation of NBFC rates that are now at issue in that case. Indeed, Ms. Mantle is the person who argues that Case No. ER-2010-0274 is relevant to the Commission's consideration of her sharing mechanism proposal in this case. Staff Cost of Service Report ("Staff Report"), pp. 113-14. The questioning indeed was extensive *and necessary* because every single one of the new allegations listed in paragraph 2 above are pertinent to the facts in that docket, facts that *Ms. Mantle herself* put at issue in this case when she injected the existence of that docket into this rate case by arguing that the mere existence of the docket was a factor the Commission should consider in connection with her FAC sharing proposal.

7. However, when she first made the facts in Case No. ER-2010-0274 an issue in this case, she only recited some very basic facts about the case; nothing more than what the case

Moreover, because the evidentiary hearings started the next day, the deposition could not practically be postponed in order to address the Staff's objection at a later time.

was and what the basic issue was.⁴ The facts she recited were accurate and uncontroversial. Her recitation of the basic facts reflected no judgment about why what she termed the “alleged error” that is the subject of Case No. ER-2010-0274 may have occurred, or whose fault it may have been. She simply concluded her very basic factual recitation of what the docket was about with the following cryptic sentence: “Staff recommends the Commission consider the foregoing as a basis for changing the sharing mechanism from 95%/5% to 85%/15%.”⁵

8. When Ms. Mantle was first deposed – before she filed her surrebuttal testimony – she was asked a few questions about Case No. ER-2010-0274. Essentially those questions attempted to better discern *why* she contended that the Commission should “consider” the fact that the ER-2010-0274 docket existed in relation to her sharing percentage proposal. At that time she was asked to explain the alleged relationship between the mistake at issue in that docket and her sharing percentage proposal:

Q. And how would increasing the sharing percentage to 85/15 have prevented that [the mistake] from happening, if you think it would have?

A. I don’t know whether it would have or not. I think the company would be looking at things much closer the higher their share is, so I don’t know whether it would have prevented it, it may not have.⁶

And when asked why the Staff did not believe the impact of the mistake could be corrected, she simply said “I believe that’s a legal issue.”⁷ Her basic answers were that she believed that perhaps the error that led to that docket might not have occurred if the Company’s

⁴ Staff Report, pp. 113-14.

⁵ Staff Report, p. 114.

⁶ Mantle Deposition, April 13, 2011, p. 50, lines 15-22.

⁷ *Id.* p. 47, line 1.

share of net fuel cost changes had been greater. In that deposition she made *none* of the allegations recited in paragraph 2 above; indeed, not once did she mention an alleged misrepresentation or a violation of any Commission rule.

9. Two days after that first deposition – and 21 days after the Company had filed its rebuttal testimony – Ms. Mantle filed her surrebuttal testimony and made, among others, the allegations recited in paragraph 2 above.⁸ All of the new allegations she makes arise from events occurring months and years prior to the time when both the Staff Report was filed and her first deposition was taken. The bottom line is that for the first time in her surrebuttal testimony she claimed that the Company had mislead the Staff, violated the Commission’s rules, and changed data without telling the Staff. She also no less than five times emphasized that it was the Company’s “erroneous calculation” (implying that the Staff was free from fault) that led to the mistake now at issue in Case No. ER-2010-0274. A fair reading of these new allegations is that Ms. Mantle was now suggesting that the Company had been dishonest or sloppy and that she was contending that this led to the matters at issue in Case No. ER-2010-0274, which she contends the Commission should “consider” in relation to her sharing percentage proposal.

10. Suffice it to say that the Company did not agree with the new allegations in Ms. Mantle’s surrebuttal testimony and indeed believed that the new allegations were false. Consequently, given that the Company had no further opportunity to itself file testimony to rebut what it believes to be false allegations, a second deposition of Ms. Mantle was necessary, that is, if the Company were going to be able to defend itself against allegations which even if true could have all been made, and should all have been made, in the Staff’s direct case.

⁸ Consequently, the Staff’s theory -- that because she *mentioned* Case No. ER-2010-0274 in the Staff Report and was asked some questions about it in her first deposition she cannot be asked about it in the second deposition – entirely misses the point.

11. The deposition revealed that indeed the allegations indeed are false, for the most part because the allegations are based upon facts that Ms. Mantle swore were true but which in fact she *had no knowledge of* and thus had no business testifying about. Consider the following facts discovered during this deposition regarding the allegations set forth in paragraph 2 above.

12. As noted, Ms. Mantle's surrebuttal testimony alleged that the "Staff should be able to use . . . loads Ameren Missouri submitted [under] 4 CSR 240-3.190(1)(C) . . ." to determine NBFC rates. She also alleged that Ameren Missouri "without notifying Staff . . . much earlier changed its monthly 4 CSR 240-3.190(1)(C) data . . ." and that because of this alleged change "Staff conducted its analyses in both Case No. ER-2007-0002 and Case No. ER-2008-0318 using Net System Output instead of Net System Input" and the Company did not "notify Staff that what Staff had used was actually Net System Output"

13. In her April 25 deposition, Ms. Mantle explained that it was her belief that after the Company started to participate in the Midwest ISO the hourly load data reported by the Company under 4 CSR 240-3.190(1)(C) was changed so that it was no longer "at the generation level."⁹ In her deposition Ms. Mantle testified that this 3.190(1)(C) data was used by the Staff used in its fuel modeling in Case Nos. ER-2007-0002 and ER-2008-0318. Consequently it was Ms. Mantle's theory that the error that led to there being a docket in Case No. ER-2010-0274 occurred because the Company had changed its 3.190 data so that it was not at the generation level but had not told the Staff (one of the "misrepresentations" she alleges occurred).¹⁰ What Ms. Mantle did not know, until being confronted with the Company's response to data requests

⁹ I.e., so that it no longer contained line losses.

¹⁰ She specifically claimed that the data was changed so that it was no longer at the generation level prior to time of Case No. ER-2007-0002. Mantle Deposition, April 25, 2011, p. 65, lines 11-21; but then she admitted that she doesn't in fact know if this is true. *Id.* p. 66, lines 1-11.

the Staff asked the Company in Case No. ER-2007-0002, is that the Company had *not* changed its data and that the data in fact *was* reported at the generation level and the Company *had so advised the Staff*:

Q. And the conclusion [the the data request response] is saying or certainly can be read to say that the 3.190 data does include transmission losses, right?

A. Yes.

Q. Which means that the 3.190 data in the post-MISO market world – or I said post, beginning with the MISO market I should say, is at generation?

A. That's the way I read it.¹¹

14. As indicated in the Affidavit of Timothy D. Finnell (Attachment 1 hereto) the Company had also not changed its 3.190 data as of the time of Case No. ER-2008-0318, and was continuing to report the hourly loads at the generation level at that time, which means that the Staff failed to use the 3.190 data when it performed the fuel modeling in Case No. ER-2008-0318 that led to the error now at issue in Case No. ER-2010-0274. Consequently, Ms. Mantle's claim that the Staff used 3.190 data in its fuel modeling is just plain wrong. The crux of the matter is that Ms. Mantle's surrebuttal testimony painted a picture of a dishonest, sloppy utility that she would argue needs more incentive (via a higher sharing percentage in the FAC) and painted that picture by alleging facts that were not true.

15. The deposition revealed that contrary to what Ms. Mantle said in her surrebuttal testimony, the Staff did have 3.190 data with loads at the generation level that it could have used in its fuel modeling; the data had *not* been changed; and the Staff could have used the data in its fuel modeling just as Ms. Mantle said the Staff should have been able to do and had the Staff done so there would have been no dispute in Case No. ER-2010-0274. The deposition revealed

¹¹ Mantle Deposition, April 25, 2011, p. 88, lines 13-20; *see also* p. 103, lines 8-10.

that it was the Staff that apparently used *other* data, having been *specifically told* by the Company that the other data was *not* at the generation level and having been specifically told that the 3.190 data *was* at the generation level. This is demonstrated by Attachment 2 (Deposition Exhibit 5), the data request response referenced earlier. That data request, and Ms. Mantle's testimony about it, leads one to the conclusion that at least Staff employee Erin Maloney, who placed the phone call that prompted the Company to provide the supplemental data request response reflected in Attachment 1, either herself did not understand that the data she was using was not at generation (despite specifically being told this), or did not tell another Staff employee who needed to know this information, Shawn Lange, that this was the case, or both.¹² Ms. Mantle admitted that Ms. Maloney made a mistake and admitted that Ms. Maloney should have told Mr. Lange about the information in the data request response, that is, if he did not read the data request response himself (which, after all, was his data request).¹³ Based upon the Staff's Response to the Company's data request No. 022, we now know that Mr. Lange was aware of the response. A fair reading of the deposition transcript and the Staff's data request response thus leads to the conclusion that it was the *Staff* who used the wrong data in its fuel modeling – that Staff knew the data it was using was not at the generation level -- which led to the mistake that has now arisen in Case No. ER-2010-0274. But for that mistake, there would be no contest

¹² *Id.* p. 94, lines 5-13; 22-23 (The Company told her that the data she used (which was not the 3.190 data) was not at generation; Ms. Maloney believed it was (despite having been told the contrary); and Ms. Maloney made a mistake.

¹³ *Id.* p. 98, line 14 to p. 99, line 12.

in that docket, and Ms. Mantle wouldn't be attempting to use that docket to bolster her sharing percentage arguments.¹⁴

16. Another new allegation made in Ms. Mantle's surrebuttal testimony is reflected in the fact that no less than five different times she stated or suggested that the mistake at issue was entirely the product of a mistake by the Company – an “erroneous calculation” of NBFC rates -- suggesting that the Staff bore no responsibility for the mistake. However, the deposition revealed that Ms. Mantle was not involved in the calculation and had no personal knowledge of how it came to exist.¹⁵ In fact, while it is true that the Company did calculate proposed NBFC rates and sent its calculations to the Staff, it is also true that the Staff changed some of the inputs that went into the calculations and that the product of the *Staff's* final calculation worksheet was reflected in the FAC tariff. *See* Affidavit of Gary S. Weiss (Attachment 3 hereto).

17. Staff no doubt will attempt to put a different spin on Ms. Mantle's answers, and that is the Staff's right. But the point is that Ms. Mantle made claims in her surrebuttal testimony in an attempt to support her theory that the issues in Case No. ER-2010-0274 somehow support her sharing percentage proposal, yet her deposition testimony indicates many or most of her claims either are not true or, at a bare minimum, are claims about which she lacks personal knowledge and therefore should not have been making in the first place. This undermines her

¹⁴ In hindsight could the communication have been better between the Company and the Staff? To that the Company would answer “yes,” but as Ms. Mantle admits part of the communication issues that may have led to the mistake at issue lie *with the Staff*, despite the fact that the picture she attempted to paint in her surrebuttal testimony is that the fault lay at the Company's feet, and the Company's feet alone. *Id.*, p. 101, lines 11-17.

¹⁵ Mantle Deposition, April 25, 2011, p. 51; lines 1-3 (she did not perform the calculations); p. 52, line 19 to p. 54, line 8 (doesn't have personal knowledge of who performed the calculations or how they were done); p. 129, line 19 to p. 131, line 7 (admits that if the numbers on the second page of Deposition Exhibit 10 were from a Staff worksheet then the NBFC numbers in the FAC tariff came from the Staff, not the Company).

credibility and it undermines the theory behind her proposal, both of which are relevant to an important issue in this rate case.

18. In fairness, Ms. Mantle was unwilling to concede that her use of the word “misrepresentation” was out of line and on several points she simply testifies that she does not know. She’s entitled to her opinion about whether it was proper for her to claim that the Company repeatedly misrepresented information, an allegation the Company strongly denies. In the end the Commission will be the judge about the credibility of her testimony and her overall position about the sharing in the FAC once the record in this case is complete. Information gleaned from this deposition is, however, highly relevant both to the truthfulness, accuracy and basis for her claims, and to her credibility as a whole.

19. Not only were the questions asked of Ms. Mantle proper in the context of discovering the basis for the statements made in her surrebuttal testimony, but they were proper under the rules governing discovery. Under the Missouri Rules of Civil Procedure, there is no prohibition against deposing a witness twice and no limit exists on the scope of that deposition, absent a protective order obtained under Mo. R. Civ. P 56.01(c).¹⁶ Staff neither sought nor obtained such an order. In order to be admissible at trial or hearing, evidence must be legally and logically relevant (and not otherwise objectionable). *Rader Family Limited Partnership, L.L.P. v. City of Columbia*, 307 S.W.3d 243, 250 (Mo. App. W.D. 2010). Valid objections to evidence and testimony sought to be admitted at trial include such grounds as privilege, hearsay, irrelevance, and lack of foundation—but there is no recognized objection for deposition testimony responsive to questions asked in a second deposition that could have been asked, but

¹⁶ Staff’s citation to Fed. R. of Civ. P. 26 5(b)(20) is puzzling, because the undersigned counsel can find no evidence that the cited rule exists. If it did exist it would be inapposite -- the Missouri Rules of Civil Procedure contain no such rule.

were not asked, during the first deposition. Staff's objection is simply not valid and it fails as a matter of law. In any event, the questions asked of Ms. Mantle were asked because of the new allegations she made in her surrebuttal testimony.

20. Staff claims the Commission's order denying its Motion to Quash somehow indicates that the questioning had to be limited. No protective order was sought and none was issued. Moreover, as demonstrated earlier, the questioning arose from Ms. Mantle's many allegations in her surrebuttal testimony and in addition, it was certainly fair game for the Company to explore why all of these "facts" she waited until surrebuttal testimony to bring up were not mentioned either in her first deposition, on April 13, or in the Staff Report, given that all of these "facts" arose years before the Staff Report was filed.

21. One might also read Staff's Request as an attempt to sling mud toward the undersigned counsel and the Company because of the length of Ms. Mantle's April 25 deposition, and it did go on longer than the undersigned counsel anticipated. A substantial contributor to its length was the fact that on at least 13 different occasions Ms. Mantle either did not answer the question that was asked or attempted to reframe the question that was asked into a different question to which she then gave the answer she wanted to give. Her unwillingness to respond to the questions asked of course necessitated asking the questions again. A review of her deposition also reveals numerous instances where she repeatedly took the opportunity to recite what appeared to be "talking points," which in general involved claims that the Company had failed to do this, or failed to do that, or had wrongfully done other things. Was Ms. Mantle entitled to respond as she did? Yes, she was. But her responses contributed in a substantial way to the time it took to conduct the discovery the Company was entitled to conduct.

22. “Depositions can be used in court for any purpose.” Mo. R. Civ. P. 57.07(a).

The same rule applies in administrative hearings. § 536.073.1, RSMo. Unless Staff can demonstrate that those objected-to portions of Ms. Mantle’s deposition testimony are inadmissible evidence, they can be used. Staff’s objection is not valid, offers no explanation as to why the testimony is not competent evidence, and provides the Commission with no basis upon which to exclude the testimony.

WHEREFORE, the Company prays for an order OVERRULING the Staff’s objections to Ms. Mantle’s deposition testimony.

Respectfully submitted,

/s/ James B. Lowery

James B. Lowery, #40503

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**ATTORNEYS FOR
UNION ELECTRIC COMPANY, d/b/a
AMEREN MISSOURI**

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Response was served via e-mail on counsel of record for all parties of record in this case, on this 2nd day of May, 2011.

/s/James B. Lowery
James B. Lowery

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

**In the Matter of the Tariff Filings of Union)
Electric Company, d/b/a Ameren Missouri, to)
Increase Its Revenues for Retail Electric Service.)**

Case No. ER-2011-0028

STATE OF MISSOURI)
CITY OF ST. LOUIS)


AFFIDAVIT OF TIMOTHY D. FINNELL

I, Timothy D. Finnell, duly sworn and on my oath state as follows:

1. My name is Timothy D. Finnell. I am Managing Supervisor, Operations Analysis, for Ameren Services Company, and provide operations analysis services for Union Electric Company d/b/a Ameren Missouri.
2. I have had personal knowledge with respect to the hourly load data reported to the Commission under Commission Rule 4 CSR 240-3.190 (and the hourly load data reported to the Commission under the predecessor rule, 4 CSR 240-20.080), since the early 1990s.
3. From at least the early 1990s until approximately May 2010, after the conclusion of Case No. ER-2010-0036, the hourly load data reported to the Commission was at the generation level, meaning it included both distribution and transmission line losses.
4. During this entire time, the reported data include hourly loads within the entire Union Electric Company control area, meaning it included loads for certain municipal customers and cooperatives, including, e.g., Citizens Electric. The reports specifically included notes that advised the user that the aggregate data was for the entire control area. To obtain Union Electric Company hourly loads at the generation level one simply needed to subtract the non-Union Electric Company loads from the aggregate loads.
5. Consequently, all 3.190 hourly load data in the Commission's/Staff's possession for Case Nos. ER-2007-0002 and ER-2008-0318 was reported at the generation level.
6. Starting approximately May 2010, well after Case No. ER-2008-0318 was over, the Company added additional data to the hourly load data reported under 3.190. After that time, the hourly load data continued to include hourly loads at generation, but an additional column was added that showed the transmission losses (which, along with the distribution losses are included in the hourly loads at generation) separately.


7. Had the 3.190 hourly load data been used in the Staff's fuel modeling in Case Nos. ER-2007-0002 and ER-2008-0318 the loads used in the model necessarily would have had to have been at the generation level because the 3.190 loads were at the generation level.

FURTHER AFFIANT SAYETH NOT.



Timothy D. Finnell

SUBSCRIBED AND SWORN TO before me this 2nd day of May, 2011.



Notary Public



AmerenUE's Response to
MPSC Staff Data Request
MPSC Case No. ER-2007-0002
AmerenUE's Tariff Filing to Increase Rates for Electric Service
Provided to Customers in the Company's Missouri Service Area

Requested From: Shawn Lange

Data Request No. 0137:

Please provide, in electronic form, the Union Electric Company d/b/a AmerenUE hourly net system input for January 1, 2005 through June 30, 2006.

Response:

The attached MPSC 0137 T Finnell UE Hourly Loads.xls contains the AmerenUE hourly loads for the period January 1, 2005 to June 30, 2006.

Prepared By: Tim Finnell
Title: Supervising Engineer
Pricing and Analysis
Date: August 31, 2006



Attachment 2

AmerenUE's Response to
MPSC Staff Data Request
MPSC Case No. ER-2007-0002
AmerenUE's Tariff Filing to Increase Rates for Electric Service
Provided to Customers in the Company's Missouri Service Area

Requested From: Shawn Lange

Data Request No. 0137:

Please provide, in electronic form, the Union Electric Company d/b/a AmerenUE hourly net system input for January 1, 2005 through June 30, 2006.

Supplemental Response No. 1:

On 10/17/06 Erin Maloney of the MPSC staff called regarding the original response to MPSC DR 137

Erin supplied me with a file named: NSI13 190vsDR137.xls which compared the hourly load data supplied in the monthly MPSC reporting requirement **CSR 240 – 3.190** to the data supplied in **MPSC DR 137**. Erin wanted to know what the differences were between the two hourly load data bases. The differences are explained below.

CSR 240-3.190 data is control area load data. The control area load contains load data which is not AmerenUE load. The non AmerenUE loads include: Citizens Electric, Citizens Electric-Proctor & Gamble, City of Jackson, City of California, City of Lineus, and City of St. James. Eliminating these customers from the CSR 240-3.190 data results in the MPSC DR 137 hourly load data for the period January 1, 2005 to March 31, 2005. Note that the loads for January 1, 2005 to March 31, 2005 include transmission line losses that were supplied by AmerenUE. On April 1, 2005 Ameren UE started operating in the MISO Day 2 market. In the MISO Day 2 market the transmission line losses are settled financially and not physically.

The MPSC DR 137 data for the period between April 1, 2005 to June 30, 2006 was obtained from the MISO Day 2 MDMA. The MDMA data includes AmerenUE load data plus the load data for the other AmerenUE wholesale customers. The AmerenUE wholesale customers are: City of Hannibal, City of Kahoka, City of Marceline, City of Centralia, City of Kirkwood, and City of Perry. Note that MDMA MISO Day 2 loads do not have any transmission losses.

Conclusion: The CSR 240-3.190 data is higher than the MPSC DR 137 data because it contains non-AmerenUE customers within the AmerenUE control area as well as physical transmission line losses.

Prepared By: Tim Finnell
Title: Supervising Engineer
Pricing and Analysis
Date: October 18, 2006

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

**In the Matter of the Tariff Filings of Union)
Electric Company, d/b/a Ameren Missouri, to)
Increase Its Revenues for Retail Electric Service.)**

Case No. ER-2011-0028

STATE OF MISSOURI)
CITY OF ST. LOUIS)

AFFIDAVIT OF GARY S. WEISS

I, Gary S. Weiss, duly sworn and on my oath state as follows:

1. My name is Gary S. Weiss. I am Manager, Regulatory Accounting, for Union Electric Company d/b/a Ameren Missouri. I served in that role during the entire period that Case No. ER-2008-0318 was pending.
2. Shortly after the Commission issued its Report and Order in Case No. ER-2008-0318, I developed a spreadsheet containing the various agreed-upon inputs needed to calculate the NBFC rates for use in the Company's FAC tariff. Those inputs had been agreed-upon in a Stipulation and Agreement among the Company, the Staff and other parties that had been filed in the case and approved by the Commission. Among the agreed-upon inputs were the kilowatt hour sales that would need to be used to calculate the NBFC rates. The Stipulation recited that those kilowatt hour sales were from the Staff's fuel model, and that the kilowatt hour sales were at the generation level, and I assumed that this was correct. A true and correct copy of the spreadsheet is attached hereto and incorporated herein by this reference as Exhibit A.
3. I transmitted the Excel file containing Exhibit A, with formulas intact, to Staff Auditor Steve Rackers by e-mail.
4. Shortly thereafter, Mr. Rackers called me and indicated that the Staff desired to change some of the inputs, which I understood to be the kilowatt hours sales applicable to the Missouri jurisdiction and the applicable summer/winter kilowatt hour sales.
5. After that phone call, Mr. Rackers transmitted an Excel file (with formulas intact) to me. A true and correct copy of the spreadsheet I received from Mr. Rackers is attached hereto and incorporated herein by reference as Exhibit B.
6. The kilowatt hour sales used by the Staff were slightly different and produced a slightly different summer NBFC rate than I had calculated, but the Company had no objection and accepted the revised kilowatt hours and summer NBFC rates as reflected in Exhibit B.


7. The NBFC rates reflected in Exhibit B were then listed in the Company's FAC tariff, which was filed together with the other compliance tariffs in compliance with the Report and Order. After the Staff recommended approval of those compliance tariffs, the Commission approved them and they took effect.

FURTHER AFFIANT SAYETH NOT.



Gary S. Weiss

SUBSCRIBED AND SWORN TO before me this 2 day of May, 2011.



Notary Public

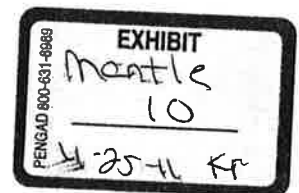


AmerenUE Missouri Case No. ER-2008-0318
 AmerenUE Net Base Fuel Cost (NBFC)
 12 Months Ended March 31, 2008 Trued-Up Through September 30, 2008 Reflecting Settlement

	Total	Missouri	Missouri Summer	Missouri Winter
A Fuel & Purchased Power Costs Per Staff's Model				
Fuel For Load	500,495,800	492,788,165	180,261,553	312,526,612
Fixed Gas Supply Costs for Load (1)	6,246,987	6,150,783	2,055,592	4,095,192
Purchased Power for Load	43,627,900	42,956,030	20,823,305	22,132,725
Total Fuel and Purchased Power for Load	<u>550,370,687</u>	<u>541,894,978</u>	<u>203,140,450</u>	<u>338,754,529</u>
Fuel For OSS	151,423,940	149,001,157	54,587,400	94,413,757
Fixed Gas Supply Costs for OSS (1)	1,890,013	1,859,773	621,536	1,238,237
Purchased Power for OSS	39,417,750	38,787,066	9,240,744	29,546,322
Total Fuel and Purchased Power for OSS	<u>192,731,703</u>	<u>189,647,996</u>	<u>64,449,680</u>	<u>125,198,316</u>
Total Fuel and Purchased Power	<u>743,102,390</u>	<u>731,542,974</u>	<u>267,590,130</u>	<u>463,952,844</u>
B Additional Fuel & PP Costs (from G. Weiss)				
Westinghouse Credits (1)	(1,816,000)	(1,786,944)	(597,197)	(1,189,747)
MISO Day 2 Excluding Admin (Acct 555) (1)	64,142,750	63,154,952	21,106,385	42,048,567
Under-Forecasting Error (1)	3,800,000	3,741,480	1,250,403	2,491,077
Total Additional Fuel & PP Costs	<u>66,126,750</u>	<u>65,109,488</u>	<u>21,759,591</u>	<u>43,349,897</u>
C Sales				
Off-System Energy Sales Per Staff's Model	451,748,000	444,520,032	134,507,880	310,012,152
MISO Day 2 Revenues (Acct 447) (1)	12,257,104	12,060,990	4,030,783	8,030,207
Capacity Sales (1)	6,408,950	6,306,407	2,107,601	4,198,806
Taum Sauk Capacity Revenues (1)	4,900,000	4,821,600	1,611,379	3,210,221
Ancillary Services Capacity Revenue (1)	3,500,000	3,444,000	1,150,985	2,293,015
Black Box Settlement Amount (1)	3,000,000	2,952,000	986,558	1,965,442
Total Sales	<u>481,814,054</u>	<u>474,105,029</u>	<u>144,395,186</u>	<u>329,709,843</u>
A + B - C Net Base Fuel Costs	<u>327,415,086</u>	<u>322,547,433</u>	<u>144,954,535</u>	<u>177,592,898</u>
Load Forecast at Generation Level Per Staff's Model	40,871,586,000	40,242,163,576	14,498,369,890	25,743,793,685
Net Base Fuel Costs (\$ per MWH)	8.01	8.02	10.00	6.90
Net Base Fuel Costs (cents per KWH)	0.801	0.802	1.000	0.690

(1) Allocated between summer and winter based on number of days in summer (122/365) or 33.42%.

Exhibit A



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AmerenUE Missouri Case No. ER-2008-0318
 AmerenUE Net Base Fuel Cost (NBFC)
 12 Months Ended March 31, 2008 Trued-Up Through September 30, 2008 Reflecting Settlement

	Total	Missouri	Missouri Summer	Missouri Winter
A Fuel & Purchased Power Costs Per Staff's Model				
Fuel For Load	500,495,800	492,788,165	180,261,553	312,526,612
Fixed Gas Supply Costs for Load (1)	6,246,987	6,150,783	2,055,592	4,095,192
Purchased Power for Load	43,627,900	42,956,030	20,823,305	22,132,725
Total Fuel and Purchased Power for Load	<u>550,370,687</u>	<u>541,894,978</u>	<u>203,140,450</u>	<u>338,754,529</u>
Fuel For OSS	151,423,940	149,001,157	54,587,400	94,413,757
Fixed Gas Supply Costs for OSS (1)	1,890,013	1,859,773	621,536	1,238,237
Purchased Power for OSS	39,417,750	38,787,066	9,240,744	29,546,322
Total Fuel and Purchased Power for OSS	<u>192,731,703</u>	<u>189,647,996</u>	<u>64,449,680</u>	<u>125,198,316</u>
Total Fuel and Purchased Power	<u>743,102,390</u>	<u>731,542,974</u>	<u>267,590,130</u>	<u>463,952,844</u>
B Additional Fuel & PP Costs (from G. Weiss)				
Westinghouse Credits (1)	(1,816,000)	(1,786,944)	(597,197)	(1,189,747)
MISO Day 2 Excluding Admin (Acct 555) (1)	64,142,750	63,154,952	21,106,385	42,048,567
Under-Forecasting Error (1)	3,800,000	3,741,480	1,250,403	2,491,077
Total Additional Fuel & PP Costs	<u>66,126,750</u>	<u>65,109,488</u>	<u>21,759,591</u>	<u>43,349,897</u>
C Sales				
Off-System Energy Sales Per Staff's Model	451,748,000	444,520,032	134,507,880	310,012,152
MISO Day 2 Revenues (Acct 447) (1)	12,257,104	12,060,990	4,030,783	8,030,207
Capacity Sales (1)	6,408,950	6,306,407	2,107,601	4,198,806
Taum Sauk Capacity Revenues (1)	4,900,000	4,821,600	1,611,379	3,210,221
Ancillary Services Capacity Revenue (1)	3,500,000	3,444,000	1,150,985	2,293,015
Black Box Settlement Amount (1)	3,000,000	2,952,000	986,558	1,965,442
Total Sales	<u>481,814,054</u>	<u>474,105,029</u>	<u>144,395,186</u>	<u>329,709,843</u>
A + B - C Net Base Fuel Costs	<u>327,415,086</u>	<u>322,547,433</u>	<u>144,954,535</u>	<u>177,592,898</u>
Load Forecast at Generation Level Per Staff's Model	40,871,586,000	40,212,338,146	14,487,622,474	25,724,715,672
Net Base Fuel Costs (\$ per MWH)	8.01	8.02	10.01	6.90
Net Base Fuel Costs (cents per KWH)	0.801	0.802	1.001	0.690

(1) Allocated between summer and winter based on number of days in summer (122/365) or 33.42%.