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**Missouri Public
Service Commission**

Exhibit No.:

Issue: Accounting Authority Order

Witness: Mark L. Oligschlaeger

Sponsoring Party: MoPSC Staff

Type of Exhibit: Cross-Surrebuttal Testimony

File No.: EU-2012-0027

Date Testimony Prepared: April 12, 2012

MISSOURI PUBLIC SERVICE COMMISSION

UTILITY SERVICES DEPARTMENT

CROSS -SURREBUTTAL TESTIMONY

OF

MARK L. OLIGSCHLAEGER

UNION ELECTRIC COMPANY

d/b/a Ameren Missouri

FILE NO. EU-2012-0027

*Jefferson City, Missouri
April 2012*

Staff Exhibit No. 4
Date 5-03-12 Reporter KF
File No. EU-2012-0027

1 **CROSS-SURREBUTTAL TESTIMONY**

2 **OF**

3 **MARK L. OLIGSCHLAEGER**

4 **UNION ELECTRIC COMPANY**

5 **d/b/a Ameren Missouri**

6 **FILE NO. EU-2012-0027**

7 Q. Please state your name and business address.

8 A. Mark L. Oligschlaeger, P.O. Box 360, Suite 440, Jefferson City, MO 65102.

9 Q. Are you the same Mark L. Oligschlaeger who has previously submitted rebuttal
10 testimony in File No. EU-2012-0027, the application of Union Electric Company d/b/a Ameren
11 Missouri ("UE" or "Company") for an accounting authority order (AAO) in this proceeding?

12 A. Yes, I am.

13 Q. What is the purpose of your cross-surrebuttal testimony?

14 A. The purpose of this testimony is to comment upon the rebuttal testimony of
15 Missouri Industrial Energy Consumers ("MIEC") witness Maurice Brubaker on the subject of the
16 income tax implications to UE of the loss of load from Noranda Aluminum, Inc. ("Noranda")
17 due to the January 2009 ice storm.

18 Q. Do you agree with the rebuttal testimony of Mr. Brubaker at page 7, lines 12-14
19 wherein he states that the financial loss quantified by UE, in the direct testimony of UE witness
20 Steven M. Wills, from the loss of Noranda load due to the ice storm, is overstated because it has
21 not taken into account the decrease in income tax expense associated with this reduction in
22 revenues?

23 A. Yes, I do.

1 Q. What is Staff's estimate of the financial impact to UE of the loss of Noranda load,
2 taking income taxes properly into account?

3 A. Based upon Staff's quantification of a pre-tax \$35,347,378 impact from the
4 Noranda load loss, as presented in the rebuttal testimony of Staff witness Jason D. Carter, and
5 assuming an effective composite income tax rate of 38.3886%, the financial loss experienced by
6 UE in 2009-2010 associated with the ice storm-related loss of load from Noranda, after taking
7 into account income tax effects, was \$21,868,014. Mr. Carter was not charged with addressing
8 the accounting facets, i.e., he was not charged in particular with addressing the income tax facets
9 of Ameren Missouri's AAO Application.

10 Q. Why is Staff's quantification of UE's after-tax loss associated with the reduction
11 in sales to Noranda different from Mr. Brubaker's after-tax quantification of the loss?

12 A. Mr. Brubaker used the Company's pre-tax quantification of its Noranda loss, as
13 found in UE witness Wills' direct testimony, as the starting point of his calculation. Staff used
14 as its starting point the pre-tax Noranda load loss quantification found in Staff witness Carter's
15 rebuttal testimony.

16 Q. Is UE's actual loss approximately \$21.87 million or the approximately \$35.34 million
17 it is requesting permission to defer in its Application (both amounts using Staff's quantification)?

18 A. UE's actual loss is \$21.87 million. As explained in Staff's rebuttal testimony in
19 this proceeding, UE is in reality seeking permission in this case to defer "lost revenues," or "lost
20 profits," and is not seeking deferral treatment of "fixed costs" or expenses of any kind. Any
21 revenues received by UE as a result of the Commission approving its deferral request in this case
22 will be fully taxable to UE upon receipt. For this reason, any amount recovered in rates by UE
23 associated with this deferral must be "grossed-up" for income taxes; i.e., UE must receive
24 approximately \$35.34 million from its customers if it desires to retain approximately

1 \$21.87 million as profit after income taxes are paid. UE's deferral request in this Application
2 recognizes the need to gross-up the amounts deferred in order to address the income taxes
3 ultimately payable to taxing authorities if rate recovery is later granted for the deferrals. While
4 UE is seeking in this Application to defer an amount that is grossed-up for income taxes, UE will
5 not actually have to pay these income taxes to taxing authorities until such time that the
6 Commission authorizes recovery of the deferred amounts in a subsequent general rate proceeding
7 and collects those amounts from customers.

8 Q. When the Commission has allowed Missouri utilities to defer extraordinary
9 expenses in past AAO requests, were those amounts required to be grossed up for income taxes?

10 A. No. In all prior circumstances of which I am aware, the extraordinary expenses
11 which the Commission has allowed utilities to defer were fully tax-deductible, meaning that the
12 utilities only had to recover these costs on a dollar-for-dollar basis from customers in order for
13 the utility to be made whole. No tax gross-up of the amounts was required of the utility. This
14 effect is why rate recovery of lost revenues, or lost profits, through the AAO deferral mechanism
15 is inherently burdensome to customers compared to rate recovery of deferred extraordinary
16 expenses. For lost revenues / lost profits, customers have to pay in approximately \$1.60 in
17 increased rates to make the utility whole for every \$1.00 of revenue lost or profit lost by
18 the utility.

19 Q. Is the fact that UE has grossed-up its deferral request in this Application for
20 income taxes an implicit admission that it is not seeking deferral of "fixed costs?"

21 A. Yes. As previously explained, fixed costs (or expenses of any kind) are almost
22 always tax-deductible. Revenues, or profits, are not.

1 Q. Why did you not discuss the income tax implications of UE's proposed deferral
2 request in your rebuttal testimony in this case?

3 A. The burden placed on customers to pay increased income taxes associated with
4 rate recovery of lost revenue / lost profit deferrals is not a primary argument in this proceeding
5 for Staff's opposition to UE's deferral request, as Staff is opposed to this deferral request in all
6 respects. Upon reading the rebuttal testimony of MIEC witness Maurice Brubaker in this case,
7 however, Staff chose to inform the Commission of its quantification of the income tax expense
8 burden on customers to pay for rate recovery of lost revenue / lost profit deferrals if the
9 Commission were to grant UE's deferral request and allow subsequent rate recovery of that item.
10 Again, Staff uses as its starting point the pre-tax Noranda load loss quantification found in Staff
11 witness Jason Carter's rebuttal testimony.

12 Q. Were income tax issues raised by Staff in MGE's recent request for a deferral of
13 lost revenues / lost profit in File No. GU-2011-0392?

14 A. Staff did not raise this issue in its rebuttal testimony in File No. GU-2011-0392
15 for the same reason it did not do so in this case. However, Staff did discuss the income tax
16 implications of lost revenue / lost profit deferrals in its opening statement in the evidentiary
17 hearings in that case.

18 Q. Does this conclude your cross-surrebuttal testimony?

19 A. Yes, it does.

BEFORE THE PUBLIC SERVICE COMMISSION

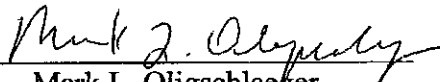
OF THE STATE OF MISSOURI

In the Matter of the Application of Union)
Electric Company d/b/a Ameren Missouri for) File No. EU-2012-0027
the Issuance of an Accounting Authority Order)
Relating to its Electrical Operations.)

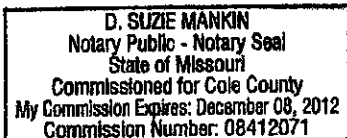
AFFIDAVIT OF MARK L. OLIGSCHLAEGER

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

Mark L. Oligschlaeger, of lawful age, on his oath states: that he has participated in the preparation of the foregoing Cross-Surrebuttal Testimony in question and answer form, consisting of 4 pages to be presented in the above case; that the answers in the foregoing Cross-Surrebuttal Testimony were given by him; that he has knowledge of the matters set forth in such answers; and that such matters are true and correct to the best of his knowledge and belief.


Mark L. Oligschlaeger

Subscribed and sworn to before me this 12th day of April, 2012.




Notary Public