

Exhibit No.:
Issue(s): Uncertain Tax Positions
Witness: Gary S. Weiss
Sponsoring Party: Union Electric Company
Type of Exhibit: Surrebuttal Testimony
Case No.: ER-2011-0028
Date Testimony Prepared: April 15, 2011

MISSOURI PUBLIC SERVICE COMMISSION

CASE NO. ER-2011-0028

SURREBUTTAL TESTIMONY

OF

GARY S. WEISS

ON

BEHALF OF

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

**St. Louis, Missouri
April, 2011**

1 **SURREBUTTAL TESTIMONY**

2 **OF**

3 **GARY S. WEISS**

4
5 **CASE NO. ER-2011-0028**

6 **Q. Please state your name and business address.**

7 A. My name is Gary S. Weiss. My business address is One Ameren Plaza,
8 1901 Chouteau Avenue, St. Louis, MO 63103.

9 **Q. Are you the same Gary S. Weiss who filed direct and rebuttal testimony**
10 **in this case?**

11 A. Yes, I am.

12 **Q. What is the purpose of your surrebuttal testimony?**

13 A. The purpose of my surrebuttal testimony is to provide an alternative treatment
14 for the Financial Accounting Standards Board Interpretation No. 48 ("FIN 48") issue
15 addressed by Company witness James Warren in his rebuttal testimony.

16 **Q. Do you disagree with the testimony provided by Mr. Warren in his**
17 **rebuttal testimony regarding FIN 48?**

18 A. No. The Company still endorses Mr. Warren's rebuttal testimony and
19 recommended exclusion of the FIN 48 balance from accumulated deferred income tax
20 ("ADIT").

21 **Q. What alternative treatment for the FIN 48 balance are you providing?**

22 A. The Company is offering the option to the Commission of establishing a
23 tracking mechanism to account for the time value of the differences, if any, between the
24 amounts accrued to reflect uncertain tax positions in the FIN 48 liability balance, and the

1 amounts that the Company actually must pay pursuant to a final, un-appealable resolution of
2 the uncertain tax positions based on final Internal Revenue Service (“IRS”) rulings or final,
3 un-appealable rulings from administrative agencies or courts to which IRS rulings are
4 appealed (“Final Resolution”).

5 **Q. Please explain how the proposed tracking mechanism would operate.**

6 A. The tracking mechanism would operate as follows:

- 7 • In any quarter in which an uncertain tax position is resolved pursuant to a Final Resolution, where the associated FIN 48 liability was
8 excluded from ADIT in a prior rate case, the Company shall compare
9 the final tax liability amount to the FIN 48 liability amount that was
10 associated with that uncertain tax position.
11
- 12 • If the final tax liability amount exceeds the FIN 48 liability amount
13 that was excluded from ADIT, the Company shall establish a
14 regulatory asset equal to the amount of interest on such difference
15 from the effective date of rates that first reflected the uncertain tax
16 position as a FIN 48 liability deducted from ADIT, until the effective
17 date of rates set in the first general rate proceeding following Final
18 Resolution of the uncertain tax position.
19
- 20 • If the FIN 48 liability that was excluded from ADIT exceeds the final
21 tax liability, the Company shall establish a regulatory liability equal to
22 the amount of interest on such difference over the period described in
23 the previous bullet point.
24
- 25 • Interest shall be calculated at the weighted average cost of capital as
26 determined in the rate case in which the FIN 48 liability was excluded
27 from ADIT. If the FIN 48 liability associated with an uncertain tax
28 position was excluded from ADIT in more than one rate case, the
29 weighted average cost of capital from each rate case shall apply to the
30 period the rates set in that rate case were in effect.
31
- 32 • Such regulatory asset or regulatory liability shall be amortized ratably
33 over a 3-year period beginning with the effective date of the rates
34 established in the first general rate case following Final Resolution of
35 the uncertain tax position, and the regulatory asset or liability shall be
36 grossed-up to take into account the income tax effect of the
37 amortization.
38
39

1 • During the amortization period, the unamortized balance of the
2 regulatory asset or liability shall be added to or deducted from the
3 Company's rate base.
4

5 **Q. What is the key component of the Company's alternative FIN 48 tracker?**

6 A. The key component of the Company's FIN 48 tracker is the use of the
7 Company's calculations of the FIN 48 liabilities excluded from rate base as the base amount
8 for the tracker. The calculation of the Company's FIN 48 liabilities utilizes outside experts
9 and must be approved by the Company's external auditors. These FIN 48 liabilities are
10 reviewed quarterly to keep them current. Therefore, the Company's FIN 48 liabilities
11 represent the best estimate of the cost of the Company's uncertain tax positions, based on the
12 best expert information available.

13 **Q. Does this conclude your surrebuttal testimony?**

14 A. Yes, it does.

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

In the Matter of Union Electric Company)
d/b/a AmerenUE for Authority to File)
Tariffs Increasing Rates for Electric) Case No. ER-2011-0028
Service Provided to Customers in the)
Company's Missouri Service Area.)

AFFIDAVIT OF GARY S. WEISS


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

Gary S. Weiss, being first duly sworn on his oath, states:

1. My name is Gary S. Weiss. I work in the City of St. Louis, Missouri, and I am employed by Union Electric Company d/b/a Ameren Missouri as Manager, Regulatory Accounting.

2. Attached hereto and made a part hereof for all purposes is my Surrebuttal Testimony on behalf of Ameren Missouri consisting of 3 pages, all of which have been prepared in written form for introduction into evidence in the above-referenced docket.

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



Gary S. Weiss

Subscribed and sworn to before me this 15 day of April, 2011.



Notary Public

My commission expires:

