Exhibit No.:
Issues: Prudence Audit of FAC Periods 1 and 2
Witness: Billie Sue LaConte
Sponsoring Party: Missouri Energy Group
Type of Exhibit: Direct Testimony
Case No.: EO-2010-0255
Date Testimony Prepared: November 22, 2010

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

| | | |
|---|---|---|
| In the Matter of the First Prudence Review of | ) | |
| Costs Subject to the Commission-Approved Fuel | ) | Case No. E0-2010-0255 |
| Adjustment Clause of Union Electric Company | ) | |
| d/b/a/ AmerenUE. | ) | |

DIRECT TESTIMONY

OF

BILLIE SUE LACONTE

ON BEHALF OF

MISSOURI ENERGY GROUP

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

| | | |
|---|---|---|
| In the Matter of the First Prudence Review of<br>Costs Subject to the Commission-Approved Fuel<br>Adjustment Clause of Union Electric Company<br>d/b/a/ AmerenUE. | )<br>)<br>)<br>) | Case No. E0-2010-0255 |

Affidavit of Billie S. LaConte

STATE OF MISSOURI )
)
COUNTY OF ST. LOUIS )

Billie S. LaConte, being of lawful age and duly affirmed, states the following:

1. My name is Billie S. LaConte. I am a consultant in the field of public utility economics and regulation and a member of Drazen Consulting Group, Inc.

2. Attached hereto and made a part hereof for all purposes is my Direct Testimony consisting of Pages 1 through 9 and Appendices A and B.

3. I have reviewed the attached Direct Testimony and hereby affirm that my testimony is true and correct to the best of my knowledge and belief.

Billie S. LaConte

Billie S. LaConte

Duly affirmed before me this 22nd day of November, 2010.

NOTARY PUBLIC NOTARY SEAL STATE OF MISSOURI

SHERYL M. FENELON
My Commission Expires
December 29, 2010
St. Louis County
Commission #06514106

Sheryl M. Fenelon

Notary Public

My commission expires on December 29, 2010.

**DIRECT TESTIMONY OF BILLIE SUE LACONTE**

**CASE NO. E0-2010-0255**

**Q PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

A Billie S. LaConte, 8000 Maryland Avenue, Suite 1210, St. Louis, Missouri.

**Q WHAT IS YOUR OCCUPATION?**

A I am a consultant in the field of public utility economics and regulation and a member of Drazen Consulting Group, Inc.

**Q PLEASE STATE YOUR EDUCATIONAL BACKGROUND AND EXPERIENCE.**

A These are given in Appendix A.

**Q ON WHOSE BEHALF ARE YOU SUBMITTING THIS EVIDENCE?**

A I am presenting it on behalf of the Missouri Energy Group. Members of the group served by AmerenUE are Barnes-Jewish Hospital, Buzzi Unicem USA, Inc. and SSM HealthCare.

**Q WHAT TOPICS ARE COVERED IN THIS EVIDENCE?**

A This testimony covers the Missouri Public Service Commission Staff's (Staff) Prudence Review of Costs Related to the Fuel Adjustment Clause (FAC) for the Electric Operations of Union Electric Company d/b/a/ AmerenUE, for the first and second periods of the clause.

**Q PLEASE SUMMARIZE THE MAIN POINTS OF YOUR TESTIMONY.**

A I support the Staff's position in its audit of AmerenUE's FAC for periods 1 and 2. On a technical level, the dispute between AmerenUE and Staff (plus the parties supporting Staff's position) rests on whether AmerenUE's sales of power to American Electric Power Operating Companies (AEP) and Wabash Valley Power Association, Inc. (WVPA) are designated as "long term wholesale" sales or "off-system sales." However, as a matter of regulatory principle, the issue is whether AmerenUE–or, indeed, any utility– must abide by the terms of a deal, even when it turns out to be disadvantageous, and even when the circumstances were of low probability.

**Q BRIEFLY DESCRIBE AMERENUE'S FAC.**

A In Case ER-2008-0318, the Commission allowed AmerenUE to implement a fuel adjustment clause tariff. The FAC tariff began in March, 2009. The FAC allows the flow through to customers of changes in AmerenUE's fuel costs from its forecast fuel costs on a quarterly basis. The FAC formula allows for certain offsets, such as off-system sales revenues (OSSR), to the fuel costs customers pay. 95% of the difference, whether positive or negative, is recovered from or refunded to customers.

**Q WHAT WOULD CAUSE THE DIFFERENCE TO BE NEGATIVE?**

A If the actual fuel costs are lower than forecast, then AmerenUE must refund 95% of the difference to customers. And, if the OSSR are higher than forecast, AmerenUE must refund 95% of the difference.

**Q WHY DOES STAFF CLAIM THAT AMERENUE OWES ITS CUSTOMERS A REFUND?**

A The refund is due to additional off-system sales made by AmerenUE that did not flow through the FAC tariff during the audited time periods. AmerenUE retained the additional revenues (net of fuel cost) instead of refunding 95% to its customers, as required by the FAC tariff.

**Q WHAT WERE THE CIRCUMSTANCES?**

A After the FAC was approved, but before it was in effect, an ice storm struck Southeast Missouri. The storm caused an outage to many customers, including AmerenUE's largest customer, Noranda Aluminum Company (Noranda). The outage resulted in severe damage to Noranda's plant, which led to a dramatic decrease in Noranda's rates paid to AmerenUE. In full operation, Noranda would have paid about $139 million per year. AmerenUE estimated that the actual would drop by two-thirds, to $47 million on an annual basis. [1] In the end, the actual was $76 million–still a drop, but not nearly as large as AmerenUE had predicted. (See Appendix B for calculations.)

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[1] Direct Testimony of Lynn M. Barnes, Pages 5 and 6.

Note, however, that a reduction in energy usage by Noranda also means a reduction in fuel cost to AmerenUE, so that the drop in income is less than the drop in revenues. The loss in load freed up capacity and energy that AmerenUE could and did sell off-system. Under the terms of the FAC–which AmerenUE had requested–95% of the additional revenues from these off-system sales would flow through to customers.

AmerenUE contended that this was unfair, because it was losing income from the Noranda outage and not being allowed to keep the off-system sales revenue. AmerenUE first sought to modify the recently-approved FAC, claiming that the loss in load would result in "windfall benefits for customers" of approximately $104.3 million.[2] The Commission turned down AmerenUE's request. Then, unbeknownst to its customers, AmerenUE obtained two new interchange customers, American Electric Power Operating Companies and Wabash Valley Power Association, Inc. However, the revenue generated from these customers was retained by AmerenUE, instead of flowing through the FAC tariff.

**Q WHY DID AMERENUE KEEP THE REVENUE FROM THESE INTERCHANGE SALES?**

A AmerenUE claims that these sales are long-term partial requirements contracts and thus their revenues are exempt from flow-through under the FAC tariff. The tariff defines OSSR as:

> *. . . [R]evenues from Off-System Sales allocated to Missouri electric operations. Off-System Sales shall include **all sales transactions** (including MISO revenues in FERC Account Number 447), **excluding Missouri retail sales***

[2] AmerenUE Application for ReHearing and Motion for Expedited Treatment, ER-2008-0318, Page 5, Table 1.

> ***and long-term full and partial requirements sales****, that are associated with (1) AmerenUE Missouri jurisdictional generating units, (2) power purchases made to serve Missouri retail load, and (3) any related transmission.* (Rider FAC, Sheet No. 98.3, Date Effective March 1, 2009, emphasis added)

**Q WHAT IS THE DEFINITION OF LONG-TERM REQUIREMENTS SALES?**

A The Federal Energy Regulatory Commission (FERC) defines two types. The first is long-term service (or sales) (LF) and the second is requirements service (or sales) (RQ). The FERC defines long-term service as five years or longer and requirements service as "service which the supplier plans to provide on an ongoing basis (i.e., the supplier includes projected load for this service in its system resource planning)." Utilities are required to report their sales in their Form 1 filings with the FERC.

**Q DOES AMERENUE HAVE ANY LONG-TERM REQUIREMENT SALES CONTRACTS THAT ARE EXEMPT FROM THE FAC'S OSSR CALCULATION?**

A Yes. In its FAC tariff filing reports it lists six contracts that meet this definition. These six contracts excluded from the OSSR calculation are classified as RQ or requirements service in its FERC Form 1 filing.

**Q DO THE CONTRACTS AMERENUE SIGNED WITH AEP AND WVPA MEET THESE CRITERIA?**

A No. The AEP contract is for 15 months and the WVPA contract is for 18 months. Furthermore, AmerenUE did not project load for these contracts in its system resource planning. As a matter of fact, the AEP contract expired on May 31, 2010 and the WVPA contract expired on October 31, 2010.

**Q ARE THE CONTRACTS WITH AEP AND WVPA CLASSIFIED AS LONG-TERM SERVICE (LF) IN AMERENUE'S FERC FORM 1 FOR 2009?**

A No. In its 2009 FERC Form 1, AmerenUE classified the contracts as intermediate-term firm service (IF). "Intermediate-term" means longer than one year but less than five years. The FERC also has a classification for short-term firm service (SF), which is less than one year. Even if there were a "gray area" (e.g., what is a 59 month contract?), the AEP and WVPA contracts are closer to SF than to LF.

**Q WAS AMERENUE CORRECT WHEN IT EXCLUDED THE REVENUES FROM THE AEP AND WVPA CONTRACTS IN THE OSSR CALCULATION?**

A No. If the contracts were true long-term service contracts, then AmerenUE would have classified them as such in its FERC Form 1. The FAC specifically states that OSSR excludes *long-term* full or partial requirements service, not "*intermediate-term*" full or partial requirements service.

**Q AMERENUE CLAIMS THAT ITS "ACTIONS FULLY COMPLIED WITH THE LETTER OF THE TARIFF THAT THE PARTIES HAD AGREED TO AND THE COMMISSION APPROVED. " DO YOU AGREE?**

A No. The FAC tariff explicitly requires the flow through of OSSR. The fact that Noranda lost its load, which allowed for additional off-system sales revenues to AmerenUE's customers, does not permit AmerenUE to change the definition of OSSR to benefit itself and its shareholders.

**Q AMERENUE CLAIMS THAT THE "END RESULT OF AMEREN'S ACTIONS WAS THAT CUSTOMERS WERE IN THE SAME POSITION AS IF THE ICE STORM HADN'T OCCURRED, NO BETTER OR NO WORSE." IS THIS RELEVANT?**

A No, the result was undesirable from AmerenUE's standpoint, but that was the effect of the tariff working as written. The point of the FAC tariff is to flow through 95% of the change in net fuel costs, regardless of the outcome.

**Q THE LOSS OF NORANDA'S LOAD CAUSED A LARGE DECREASE IN AMERENUE'S REVENUES. WAS THIS UNFAIR TO AMERENUE?**

A Even if AmerenUE did not expect the Noranda outage, the FAC was what it was. More to the point, it was what AmerenUE asked it to be. Presumably, AmerenUE did not expect the Taum Sauk incident, either. Were these losses of income "unfair" to AmerenUE? We can see why AmerenUE feels so. But the larger principle is that a utility is required to abide by the terms of the approved tariff. A utility may not change the definition to suit its needs, just as customers may not do so.

**Q YOU STATE THAT AMERENUE DID NOT EXPECT THE NORANDA OUTAGE. HAVE MEASURES BEEN TAKEN TO PROTECT THE UTILITY IF ANOTHER SUCH OUTAGE WERE TO OCCUR?**

A Yes. In AmerenUE's latest approved rate case, ER-2010-0036, the FAC tariff was modified to include a Factor N. This factor is:

> *The positive amount by which, over the course of the Accumulation Period, (a) revenues derived from the off-system sale of power made possible as a result of reductions in the level of 12(M) sales (as addressed in the definition of OSSR above) exceeds (b) the reduction of 12(M) revenues compared to normalized 12(M) revenues as determined in Case No. ER-2010-0036.*

**Q WHAT HAS BEEN THE CHANGE IN AMERENUE'S NET FUEL COSTS SINCE THE FAC WAS APPROVED?**

A The change was:

**Table 1**

**Change in Net Fuel Costs for AmerenUE ($millions)**

| Accumulation Period | Increase/(Decrease) in Net Fuel Costs |
|---|---|
| Period 1 | ($13.3) |
| Period 2 | 19.8 |
| Period 3 | 47.5 |
| Period 4 | $75.0 |
| Total Change in Net Fuel Costs | $129.0 |
| 95% of Change | $122.6 |

**Q** **HAVE CUSTOMERS ABIDED BY THE TERMS OF THE FAC AND PAID AMERENUE THE ADDITIONAL FUEL COST?**

A Yes. The utility received approval to modify its FAC tariff so it may collect the additional costs from customers, per the terms of the tariff.

**Q** **DOES THIS CONCLUDE YOUR TESTIMONY?**

A Yes.

## Experience of Billie S. LaConte

Ms. LaConte joined Drazen Consulting Group, Inc. in May 1995. Her work has focused on cost allocation, rate design, sales and price forecasts, power cost forecasting, electric restructuring issues, cost of capital issues and contract interpretation.

Ms. LaConte has advised clients on economic and strategic issues concerning the natural gas pipeline, oil pipeline, electric, waste water and water industries. She has prepared cost allocation and rate design studies to provide timely support to clients engaged in settlement negotiations in electric and gas utility proceedings. Ms. LaConte has prepared cost of service studies for wastewater utilities. She has provided power cost forecasting studies to assist clients in project planning, negotiating contracts with electric utilities for standby services and interruptible rates. She has prepared studies on electric and gas utilities' performance-based rates (PBR) and benchmarking programs to evaluate their success and to provide recommendations on methods to be used. Ms. LaConte has worked on contract interpretation to resolve contract disputes for several clients.

Ms. LaConte has provided economic and strategic analysis and contract interpretation for clients located in several jurisdictions, including Georgia, Maine, Iowa, Virginia, Alberta, Québec and Nova Scotia. She has provided financial and cost of service analysis for natural gas pipelines certificate approval from the Federal Energy and Regulatory Commission (FERC) and the Canadian National Energy Board (NEB). Ms. LaConte submitted and delivered expert testimony before the Missouri Public Service Commission on cost allocation, rate design, cost of capital and other matters. She testified before the Alberta Energy and Utilities Board on power cost forecasting issues, electric restructuring issues, sales and price forecasts and cost allocation issues. She has similarly testified before the Iowa Utilities Board, the St. Louis Metropolitan Sewer District Commission and the Nova Scotia Utility and Review Board.

Ms. LaConte has a B.A. in mathematics (1989) from Boston University, in Boston, Massachusetts. She has a M.B.A. in finance (1995) from the John M. Olin School of Business, Washington University, St. Louis, Missouri.

Drazen Consulting Group offers economic, strategic planning and regulatory consulting services to clients that include industrial utility users, municipalities, schools, hospitals, utilities and government agencies. The founding firm (Michael Drazen and Associates) was established in 1937.

The firm's work covers all aspects of utility regulation (and deregulation), including revenue requirements, cost of capital, cost analysis, pricing, valuation, performance-based regulation and industry restructuring.

**Direct Testimony of Billie S. LaConte**
**Case No. EO-2010-0255**
**Appendix B**

**Noranda's Usage and Revenue Paid to AmerenUE for 2009**

| Line | | Usage (million MWh) | % decrease | Revenue from Noranda ($millions) |
|---|---|---|---|---|
| 1 | **Expected - before outage** | 4.130 | | $139.0 |
| 2 | **Expected - after outage** | 1.375 | -67% | 46.9 |
| 3 | **Actual -after outage** | 2.217 | -46% | 75.6 |
| 4 | **Difference (ln. 3 -ln. 2)** | 0.84 | | $28.7 |

Note: % decrease is decrease from Expected (before outage).
Expected usage - before outage assumed to be the same is in 2008, from AmerenUE's 2008 FERC Form 1, Page 304, Line 19, Column b.
Expected revenue from Noranda before outage is from Direct Testimony of Lynn M. Barnes, Page 5, Line 14.
Expected-after outage assumed a 2/3 decrease in usage, at a rate of $.0341/kWh, from AmerenUE's 2009 FERC Form 1, Page 304, Line 19, Column f.
Actual - after outage from AmerenUE's 2009 FERC Form 1, Page 304, Line 19, Column b, using the rate of $0.0341/kWh.