Exhibit No.:	
Issues:	Merger Premium and Sharing of Benefits
Witness:	Jerre E. Birdsong
Type of Exhibit:	Surrebuttal Testimony
Sponsoring Party:	Union Electric Co.
Case No.:	EM-96-149

MISSOURI PUBLIC SERVICE COMMISSION

CASE NO. EM-96-149

SURREBUTTAL TESTIMONY

OF

JERRE E. BIRDSONG

****DENOTES HIGHLY CONFIDENTIAL INFORMATION****

St. Louis, Missouri
June 3, 1996

BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

In the matter of the Application of Union Electric Company for an order authorizing: (1) certain merger transactions involving Union Electric Company; (2) the transfer of certain Assets, Real Estate, Leased Property, Easements and Contractual Agreements to Central Illinois Public Service Company; and (3) in connection therewith, certain other related transactions.	)	Case No. EM-96-149

AFFIDAVIT OF JERRE E. BIRDSONG

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

Jerre E. Birdsong, being first duly sworn on his oath, states:

1. My name is Jerre E. Birdsong. I work in the City of St. Louis, Missouri, and I am Treasurer of Union Electric Company.

2. Attached hereto and made a part hereof for all purposes is my Surrebuttal Testimony consisting of pages 1 through 21, inclusive, all of which testimony has 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.

Jerre E. Birdsong
Jerre E. Birdsong

Subscribed and sworn to before me this 1st day of June, 1996.

DEBORAH L. ANZALONE NOTARY SEAL NOTARY PUBLIC STATE OF MISSOURI

Deborah L. Anzalone
Notary Public

DEBORAH L. ANZALONE
NOTARY PUBLIC—STATE OF MISSOURI
ST. LOUIS COUNTY
MY COMMISSION EXPIRES APR. 18, 1998

SURREBUTTAL TESTIMONY
OF
JERRE E. BIRDSONG
UNION ELECTRIC COMPANY
CASE NO. EM-96-149

Q. Please state your name and address.

A. My name is Jerre E. Birdsong, and my business address is 1901 Chouteau Avenue, St. Louis, Missouri 63103.

Q. Are you the same Jerre E. Birdsong who previously submitted direct testimony in this docket?

A. Yes, I am.

Q. What is the purpose of your surrebuttal testimony?

A. The primary purpose of my surrebuttal testimony is to respond to the testimony of certain MPSC Staff and Office of Public Counsel (OPC) witnesses who have addressed Union Electric's request to recover the merger premium, transaction costs, and costs to achieve. I will also address the broader issue of the sharing of merger benefits between customers and shareholders.

SURREBUTTAL OF STAFF WITNESS FEATHERSTONE

Q. Turning first to the testimony of Staff witness Featherstone, do you agree with the first bullet point in his Summary and Conclusion that "the merger premium is not a real or actual expenditure of Ameren or any of its affiliates?"

A. No. The consummation of the merger on an exchange of shares basis does not require an up-front outlay of cash. Nevertheless, the exchange of shares results in a merger premium which, if unrecovered by shareholders, has a very real, known and measurable financial and economic cost to Ameren Corporation's shareholders. This cost has <u>two</u> components which I will describe separately.

First, the negotiated exchange ratio results in proportionately more of the value of the combined company being held by the former CIPSCO shareholders than they held pre-merger. If unrecovered, this cost is borne by UE shareholders as value is transferred from UE shareholders to CIPSCO shareholders. At the time of the announcement of the merger, UE had 102,123,834 shares of common stock outstanding valued at $35.375 per share, for an aggregate value of $3,612,630,628. CIPSCO had 34,069,542 common shares outstanding valued at $29.625 per share, for an aggregate value of $1,009,310,182. Thus, on a pre-merger basis, UE represented 78.2% of the aggregate value. After CIPSCO shares are converted to 1.03 shares of Ameren common stock, UE's shareholders' percentage ownership of the merged entity will decline to 74.4%. This decrease in percentage ownership results in the loss of value of $173 million to UE shareholders.

Second, there is an additional cost which affects <u>all</u> Ameren shareholders negatively, not just the former UE shareholders. As there will be more Ameren common shares outstanding than there were UE and CIPSCO shares pre-merger (137,215,462 Ameren shares versus 102,123,834 UE and 34,069,542 CIPSCO shares), and if the same amount of future earnings is divided by a larger number of shares, then each and every shareholder suffers the cost of dilution in earnings per share and thus share value. For example, in 1995 UE had net income of $300.857 million, resulting in earnings per share of $2.95. If UE's and CIPSCO's performance were combined for that year, the 1,022,086 additional common shares resulting from the exchange of shares would have resulted in earnings per share of $2.72. This portion of the merger premium, which is valued at $59 million, occurs due to future dilution in earnings per share for all Ameren shares.

Together, these <u>two</u> components make up the $232 million merger premium which results from the exchange of shares. If unrecovered through rates, individual shareholders bear these costs which are a real economic and financial cost to each and every shareholder.

Q. Mr. Featherstone states that the Illinois Commerce Commission Staff has "taken a very similar view of the actual existence of the merger premium." Is this correct?

A. No, it is not. The existence of the merger premium was never questioned in any testimony by any member of the ICC staff. In none of their written or oral testimony will you find such derogatory terms preceding the merger premium as "alleged", "purported", "imaginary", "bonus", or "phantom"; you will find no quotation marks around the term merger premium. The position of the ICC Staff may be summarized by the following testimony of its Financial Analyst, Mr. Alan Pregozen: "the fairness of the merger premium recovery depends on the level of savings the merger produces." (Direct Testimony, page 9)

The disagreement between the Company and Staff in the Illinois jurisdiction concerned the amount of the premium, not its existence. And, of course, this is not an issue in this docket since the Company and MPSC Staff agree about the calculation of the merger premium at 23% of the market value of CIPSCO common shares, or $232,000,000. It is curious that Staff can calculate the amount of the premium, compare it to premiums which exist in other mergers, comment on the rationale for its existence, and then deny that it exists. One possible explanation for this paradox is that the merger premium -- which is economic and financial in nature, more so than being accounting-based -- was addressed by the Commission's accounting staff in accounting terms rather than being examined on an economic and financial basis.

Q. The second bullet point in Mr. Featherstone's Summary and Conclusion is that "the merger premium will not be recorded, nor any entry of account be made on the books and records of Ameren, or any of its affiliates." Do you agree that Ameren's financial statements will be unaffected?

A. No, I do not. In the Company's response to Data Request No. 94, the Company stated that while the merger premium will not be recorded on the books of UE or CIPS, the additional shares issued in connection with the merger premium will be reflected in the capital accounts (records) of Ameren, and the dilutive effect associated with the issuance of these additional shares will be reflected in the financial statements of Ameren. In all per share calculations (including those appearing on the Company's income statement), if the merger premium is not recovered, there will be a negative effect on the financial statements of Ameren. Therefore, the effects of the merger premium will be clearly reflected in the financial statements of Ameren. Mr. Featherstone's statements that "no amount of the merger premium will appear on the financial statements of Ameren" and that "UE's alleged merger premium does not and will not exist for financial reporting purposes" are not true. Yet, it is the economic and financial costs to Ameren's shareholders that is the important factor to be recognized in a regulatory plan, not the accounting treatment.

Q. Is it true that "Union Electric and CIPSCO fully expect recovery of the merger premium through their share of any merger savings retained by the Companies" as cited in the third bullet point of Mr. Featherstone's Summary and Conclusion?

A. Union Electric is requesting an opportunity for its shareholders to be reimbursed for the merger premium costs which they incur in order that the merger might be consummated and result ultimately in billions of dollars of savings which will be passed on to customers. Even though the Company believes that it is preferable to recognize this cost explicitly in a regulatory plan, the Company is not opposed to reimbursing its shareholders from merger savings in another manner that achieves a comparable economic effect. One method by which this may be achieved without explicit recognition of the merger premium is to share net merger savings approximately 50%/50% between customers and shareholders, with the shareholders' portion grossed up for income taxes.

Q. Do you agree that Staff's proposed sharing of merger savings allows Ameren and its affiliates the opportunity to recover the merger premium through a portion of merger savings being retained by the Companies, as stated in Mr. Featherstone's fourth bullet point to his Summary and Conclusion?

A. No. The experimental alternative regulatory plan (ARP) through which the Staff's recommendation is implemented is scheduled to end June 30, 1998, and Staff is not recommending its extension in this case. It is not possible for Ameren to receive a material portion of the merger premium through the plan before its current expiration date. A return to traditional ratemaking on July 1, 1998 would leave no mechanism under the Staff proposal for the Company to recover shareholders' merger-related costs.

Q. Do you agree that "Union Electric will have several opportunities to recover any merger premium which may exist," as stated in Mr. Featherstone's Summary and Conclusion, fifth bullet point?

A. No, I do not. Mr. Featherstone lists five ways for the Company to recover the merger premium absent direct inclusion in cost of service, and none of these will allow the recovery of the premium under traditional ratemaking. As stated earlier, the effect under traditional ratemaking is relevant since Staff's proposal under the ARP expires June 30, 1998.

The first "opportunity" listed is to achieve merger savings in excess of $570 million. This may result in some recovery under the ARP at some levels of return on equity. However, if there is a return to traditional ratemaking in mid-1998 at which time any party could file a rate complaint case, then Staff's proposal would result in ALL savings, not just those above $570 million, being returned to customers. Therefore, merger savings would not be available for recovery of the merger premium by shareholders.

The second suggested "opportunity" is by increased wholesale and interchange sales from increased marketing opportunities. In calculating the cost of service for the Missouri electric jurisdiction both the Company and Staff have consistently subtracted margins from interchange sales, thereby giving customers 100% of the benefits from interchange sales. An increase in wholesale sales would similarly result in a smaller allocation to the Missouri electric jurisdiction as the jurisdictional demand allocator would increase for the wholesale jurisdiction and decline for Missouri. Again, Missouri retail customers would receive ALL of the benefits, and no amounts would remain to provide recovery of the merger premium for shareholders.

The third means of recovery suggested by Mr. Featherstone is to better position the Company to meet competition. As competition in the electric utility industry is in its infancy, there is no basis upon which to determine the actual value, if any, potentially to be gained from an enhanced ability to compete. Furthermore, we have no guidance whether regulators will claim benefits from increased competition for the benefit of regulated customers. To the extent that any such benefits are passed through to customers, shareholders would receive no benefits.

The fourth means of recovery given is through an increase in stock price. The only generally accepted way for the Company to achieve an increase in its stock price, all other things being equal, is to have an increase in earnings per share. To have an increase in earnings per share, ALL costs associated with the merger must be recovered, and shareholders must be allowed to retain some of the merger savings.

The last "opportunity" to recover the premium given is the appreciation of value of assets upon their disposition. Historically, UE's sale of utility assets and resultant gains and losses from those sales have been minimal. To plan on recovering the merger premium through the sale of essential utility operating assets is speculative, at best, and foolhardy, at worst, since this could occur only by liquidating the shareholders' investment.

Q. How can shareholders receive reimbursement of the merger premium other than through a direct addition to cost of service?

A. The indirect means by which shareholders may be reimbursed are from an increased percentage sharing of merger savings, grossing up any shareholder receipts for income taxes, or from an extended rate moratorium.

Q. Do you agree with Mr. Featherstone's sixth bullet point, namely that "based on the net merger savings of $570 million and assuming the Companies retain a portion of these savings, the Companies do not expect the merger transaction to be dilutive of earnings?"

A. The Company's expectation that the merger transaction will not be dilutive is based on our expectation that regulators will allow shareholders to retain a sufficient portion of the savings so that our shareholders will be reimbursed fully from savings for the costs which are necessary to effectuate the merger.

Whether the merger transaction is dilutive of earnings is directly related to how much of the savings is retained by shareholders. If the "portion" referenced by Mr. Featherstone is too low, then the merger will indeed be dilutive of earnings. As long as shareholders are allowed to retain sufficient savings so that they are reimbursed for ALL of their economic and financial costs, then the transaction will not be dilutive. These costs include the merger premium, transaction costs, and costs to achieve. As will be explicitly shown in my surrebuttal testimony to Mr. Hyneman, Staff's recommendation that 50% of gross merger savings be retained by shareholders indeed is dilutive in earnings per share and thus shareholder value.

Q. Mr. Featherstone's seventh bullet point is that "based on the expected net merger savings, the Board of Directors of Union Electric and CIPSCO approved the merger assuming merger benefits would be shared and there would be no earnings dilution but rather earnings accretion." Please comment.

A. As a part of its overall analysis in rendering their "fairness opinion" relative to the stock "exchange ratios", Goldman Sachs made calculations which resulted in the conclusion that, under certain conditions and assumptions, slight earnings accretion would result in the first two years of the merger. These calculations assumed that $570 million of net merger savings in the first ten years of the merger would be spread evenly throughout the first ten years and that these savings would be shared 50%/50% by customers and shareholders. Specifically, the Goldman Sachs calculation assumed that there would be $57 million of savings in each of the first two years of the merger and that $28.5 million of savings would be retained by shareholders.

This dilution/accretion calculation must be viewed in the context for which it was undertaken. It was a part of only one analysis (Pro Forma Combination Analysis) of eight analyses performed by Goldman Sachs in rendering their "fairness opinion." In the Pro Forma Combination Analysis, savings were assumed to be evenly pro rated among the first ten years of the merger and shared 50%/50% between customers and shareholders. These assumptions were made only as a simplifying "rule of thumb" and were never presented as a planned regulatory strategy or as an expectation of regulatory treatment. Instead, the analysis was to be used only in conjunction with Goldman Sachs' other extensive analyses in their rendering of their fairness opinion of stock exchange ratios. The other analyses performed were financial comparison of the two companies, historical exchange ratio analysis, selected companies analysis, contribution analysis, discounted cash flow analysis, discounted dividend analysis, and selected transaction analysis. These analyses are described in more detail in the Joint Proxy sent to all UE and CIPSCO shareholders.

Because one piece of the overall analysis can give a distorted picture of the overall valuation of the merger, the Joint Proxy emphatically states the following with respect to Goldman Sachs' "Fairness Opinion" and the analyses upon which it is based: "The preparation of a fairness opinion is a complex process and is not necessarily susceptible to partial analysis or summary description. Selecting portions of the analyses or of the summary set forth above, without considering the analyses as a whole, could create an incomplete view of the processes underlying Goldman Sachs' opinion. In arriving at their fairness determination, Goldman Sachs considered the results of all such analyses and did not assign relative weights to any of the analyses." (Joint Proxy, page 40)

Nevertheless, the net effect of Company's rate proposal on customers is almost identical to Goldman Sachs' assumption. As shown on Surrebuttal Schedule 1 which is attached to my testimony, the Company's regulatory proposal is for shareholders to retain $27.964 million of savings in the first year of the merger and $29.453 million of savings in the second year of the merger. This is derived by adding half of the net savings estimates of $20.542 million and $21.638 million, in 1997 and 1998, respectively, to $17.693 million and $18.634 million for reimbursement of merger costs for the two years. The difference between this calculation and the one utilizing Goldman Sachs' simplifying "rule of thumb" assumption, is that the latter pro rates the merger savings equally over a ten year period ($57.0 million a year) and retains half of this larger savings amount. Thus, the $28.5 million retained for shareholders in each year utilizing the Goldman Sachs' 50%/50% assumption is very similar to the Company's regulatory proposal.

Because of the similarity between the effects of our regulatory proposal and Goldman Sachs' "rule of thumb" assumptions (notwithstanding that the "rule of thumb" was never considered as a regulatory strategy), Surrebuttal Schedule 1 also shows that Mr. Featherstone's accusation that "the current regulatory proposal was a subsequent strategy developed to retain a greater portion of the merger savings for Ameren shareholders than was initially envisioned" is false.

Q. Do you agree that "the shareholders of Union Electric and CIPSCO also voted to approve the merger assuming sharing of net merger savings and that it would be beneficial to earnings and their investment" and that "the investment community reacted positively to the merger with the assumption that net merger savings of $570 million would be shared resulting in earnings accretion" as stated in the last two bullet points of Mr. Featherstone's Summary and Conclusion?

A. Yes, all of the Company's statements to the public, shareholders, and investment analysts to that effect are based on our belief that our regulators will allow us to receive an equitable sharing of savings between customers and shareholders. By equitable sharing, we mean that from the total savings, shareholders will in some manner be allowed to recover ALL of the costs that they incur in order to effectuate this merger and then be allowed to share net savings with customers. This merger will result in sufficient savings for shareholders to be reimbursed for their costs and then have enough savings remain for both customers and shareholders to receive significant benefits from the savings. Since this position is consistent with our regulatory request in this case, all statements made to the public, investment analysts, and shareholders are consistent with the Company's request for rate recognition in this case. We are not asking for additional amounts over and above what was expected at any time in the past.

Since all statements made outside the regulatory arena were based on the assumption that regulators will allow sufficient savings to be retained by shareholders to reimburse them for their economic and financial costs of effectuating the merger, plus an additional portion of savings to allow for a small accretion in earnings, in contrast to Mr. Featherstone's accusation, there is no "direct conflict" between Company witness Kimmelman's testimony that the merger will be dilutive if no recovery of the merger premium and no sharing of merger savings occur and statements made outside the regulatory arena.

UE's shareholders have sent the signal through the stock market that they expect regulators will allow them to retain some of the actual benefits resulting from the merger. Otherwise, Staff witness Moore could not have made the following conclusion in his rebuttal testimony: "I would conclude that UE's stockholders have projected that the proposed Merger will create value for them and I believe this is indicated by the out performance of UE's stock price when compared to electric utility industry since the Merger announcement." For share value to be created, actual benefits must be retained by shareholders, and this can occur only if all costs are first reimbursed.

Q. In summary, what is the simple truth about dilution/accretion of earnings in this proposed merger?

A. The simple truth is that if shareholders are allowed to retain a portion of merger savings which exactly offsets their costs in consummating the merger, there will be no dilution or accretion of earnings. To the extent that shareholders are not reimbursed for all their costs, earnings dilution will result. If they recover none of the merger premium and share in none of the savings, earnings dilution will result. If they recover all of their costs and then share in the remaining benefits, earnings accretion will result. Dilution/accretion is a direct result of the regulatory treatment.

In the case of this proposed merger, the costs to shareholders to consummate the merger are a $232 million merger premium and $41 million of transaction costs and costs to achieve. With expected savings resulting from the merger of $590 million in the first ten years, there are more than enough savings to reimburse shareholders for their costs and then have many millions of dollars left over to share with customers. Under the Company's proposal, flat or very little earnings accretion is expected to result in the first two years, while customers are receiving benefits in the form of sharing merger savings from day one. The Company is not asking customers to pay up front to receive possible benefits later. Shareholders are the ones who were asked to pay up front to receive possible benefits later. Since we are not asking for reimbursement for taxes or the time value of money, the Company's proposal does not make our shareholders whole and thus, represents a significant economic risk to shareholders.

<u>SURREBUTTAL OF STAFF WITNESS HYNEMAN</u>

Q. Turning now to the testimony of Staff witness Hyneman, please address his discussion of Mr. Kimmelman's dilution calculation.

A. In his response to Staff Data Request No. 165, Mr. Kimmelman correctly calculated the dilution which is expected to result "without Synergy Allocation". This term means under the conditions that there is no recovery of the merger premium and customers receive the benefit of all merger savings. By comparing UE estimated earnings per share for 1997 of **____** with a projected post-merger combined earnings per share of **_____**, Mr. Kimmelman correctly calculated earnings per share dilution of **__** if customers retain all the benefits of the merger. Therefore, this calculation is correct and shows what it is labeled to show.

If the calculation is modified to show no recovery of the merger premium but retention by shareholders of 50% of savings as Mr. Hyneman attempts to do, then this calculation must be made on an after-tax basis. In the formula given at line 9 on page 14 of Mr. Hyneman's testimony, the "combined earnings" amount of **________** is an after-tax amount. By including "1/2 Merger Savings" of $19,117,500 in the formula as a before-tax amount, he has mixed before-tax and after-tax amounts in a single calculation, which produced nonsensical results. When the calculation is correctly performed by adjusting the merger savings for taxes, a projected post-merger combined earnings per share of **____** is produced. Since this is below UE's projected earnings per share of **___**, it indeed shows that even if one half of savings are retained by shareholders, then there IS a dilutive effect on EPS if UE does not directly recover the merger premium.

Mr. Hyneman is apparently aware of the problem with his calculation since he stated in his rebuttal testimony that his calculation ignored any income tax effect. Since he was aware of the problem, one is tempted to conclude that he had performed the calculation correctly, but did not like the results since it showed that Staff's position would result in dilution in earnings per share. His decision to present the Commission with an incorrect calculation appears to be deliberate.

Q. Mr. Hyneman also refers to a Smith Barney analyst report in which it is stated that expected merger savings would offset any near term dilution and be accretive in EPS. Does this indicate that UE management believes there will be no dilution in projected EPS as Mr. Hyneman alleges?

A. As previously explained, expectations for dilution/accretion and reimbursement of merger costs to shareholders are inextricably linked. Any expectation of no dilution MUST be coupled with an expectation of recovery of ALL merger costs. For additional discussions of dilution, I refer you to my surrebuttal of Mr. Featherstone's testimony, above.

Q. On page 12, lines 11-13 of Mr. Hyneman's rebuttal testimony, he states that UE is proposing to defer and amortize the merger premium to cost of service on a "straight line basis" over ten years. Is his statement correct?

A. No. UE is proposing to recover the merger premium over ten years based on the ratio of estimated savings in any given year to the total estimated gross savings.

Q. Mr. Hyneman does not agree with Company witness Rainwater's characterization of the merger premium as an investment. Please comment.

A. Mr. Hyneman apparently does not agree with this characterization because he alleges that the merger premium does not meet the definition of an investment for accounting purposes. Mr. Rainwater's use of the term "investment" in no way referred to technical accounting jargon, but rather reflected the standard definition of investing "to spend or utilize (time, money, or effort) for future advantage or benefit" (American Heritage Dictionary). As with all investments of this type, it must be determined if the time, money, or effort utilized is worth the future advantage or benefit. In this case, we expect that the existence of merger savings out forever into the future makes the incidence of the merger costs up front worthwhile from the ratepayers' perspective, and therefore this investment is prudent. No Staff or OPC testimony has questioned the prudence of this investment. Mr. Hyneman's contention that the proposed merger is not a business transaction approaches absurdity. The proposed merger is the most significant business transaction in the entire corporate histories of both UE and CIPSCO.

<u>SURREBUTTAL OF STAFF WITNESS OLIGSCHLAEGER</u>

Q. Turning now to the testimony of Mr. Oligschlaeger, based upon the calculation in Schedule 2 of his testimony, he has concluded that under the

Company's proposal, customers are to receive only 27% of the gross savings while 73% of the savings go to shareholders. He then uses this information to conclude that "the Company's proposal is inequitable in that it will lead to the assignment of the vast majority of merger benefits to shareholders." Do you concur with this calculation and conclusion?

A. No, I do not. The calculation on his schedule is misleading for several reasons. First, customers get to keep every dollar allocated to their benefit. They do not have to claim any benefits as income for income tax reporting purposes. Therefore, the \$158.5 million shown on his schedule as "Total Customer Merger Savings" remains with the customer. Such is not the case with any dollars received by shareholders. Each dollar recovered for shareholders is taxed at the corporate level at UE's effective tax rate of approximately 40%. Therefore, of the \$431.5 million on Schedule 2 attributed to "Total Shareholder Merger Savings", only \$258.9 million is retained by the Company for its shareholders.

Another important distinction that is not considered in the calculation on Mr. Oligschlaeger's Schedule 2 is that customers have not incurred any costs to bring about the merger. **The first net dollar received for merger savings makes customers better off than they would have been absent the merger – such is not the case with dollars retained for shareholders.** The merger is made possible, savings can result, and customers benefit from those savings only because shareholders incurred a cost of \$273 million up front. The first dollar received by shareholders does not make them better off than they would have been absent the merger. They cannot benefit until after <u>ALL</u> of their up front costs have been reimbursed. Thus, in determining the fairness involving the sharing of savings between customers and shareholders, one must view the reimbursement of costs differently from the receipt of benefits.

Further, fairness in sharing of savings can only be determined after considering the effect of (1) taxes and (2) the time value of money. A dollar received which must be paid out in taxes is of NO benefit to the recipient. If a dollar is <u>paid out today</u> and <u>is reimbursed ten years from now</u>, the recipient has not been made whole. Mr. Oligschlaeger's testimony recommending that sharing should be assessed ignoring these factors is incomprehensible. Despite this recommendation, no Staff witness provided any explanation for why these factors should be ignored. To the contrary, the reason that they must be considered is straight forward -- taxes will actually be paid by the Company on recovered amounts, and shareholders will never receive any benefit from them; also, reimbursement of a cost ten years subsequent to its incidence represents a real financial and economic cost to the shareholder. Costs related to the time value of money are recognized by even the most elementary studies of finance.

It is also incomprehensible that Mr. Oligschlaeger believes that Staff's proposal avoids taxes associated with the recovery of the merger premium. Staff's proposal is based on the use of the ARP to share savings with shareholders to reimburse them for the merger premium. The sharing grid for the ARP is based on AFTER-TAX dollars. Therefore, any dollars remaining with the Company through the ARP must necessarily have taxes paid on them. Staff's plan does not avoid taxes.

To further bias his sharing calculation, Mr. Oligschlaeger refers to the 27% as the <u>maximum</u> which could be received by customers under the Company's proposal. Before the expiration of the ARP under the Company's proposal, any dollars saved over our estimate of $590 million will be shared with customers as allowed for through the sharing grid. This could lead to additional dollars being passed through to customers, depending on the ROE level. In the absence of the ARP, the Company's proposal results in savings above the $590 million level being passed through to customers on a dollar for dollar basis. In either case, an increased percentage is retained by customers.

Mr. Oligschlaeger's Schedule 6 is similarly biased by these same factors, making it meaningless in determining the fairness of any sharing plan.

Q. Please explain Surrebuttal Schedule 2 which is attached to your testimony.

A. In my Surrebuttal Schedule 2, I have taken Mr. Oligschlaeger's Schedule 2 which is attached to his rebuttal testimony and further broken down the amount which he claims as "Total Shareholder Merger Savings" into its more basic components. Box I of page 1 of Surrebuttal Schedule 2 shows Staff's characterization of UE's proposal. In Box II, Staff's characterization is corrected to recognize the difference between shareholder reimbursement and shareholder benefit as described above. In Box III, the sharing of benefits between customers and shareholders is adjusted for the effect of the payment of income taxes by the Company as described above. Since these taxes paid by the Company accrue to the benefit of the public sector of the economy, the composition of savings received by the public sector is actually for the benefit of all customers. Finally, Box IV shows the effect of the time value of money on the composition of merger savings to the recipients. The impact of the time value of money is that shareholders' reimbursement of costs is eroded away by the ten year amortization of costs without a return being earned on the unamortized balance. This erosion incurred by shareholders is a direct benefit to customers.

Page 2 of Rebuttal Schedule 2 shows the calculations from which the graphs on Page 1 are derived.

Q. What is the significance of Surrebuttal Schedule 2?

A. This schedule demonstrates that of the $431.5 million claimed as "Total Shareholder Merger Savings" by Mr. Oligschlaeger, only $95.1 million, or 16.1% of the gross merger savings, is retained as a benefit to shareholders. This is the amount which should be compared against the total savings benefiting customers of $158.5 million, or 26.9% of gross merger savings when assessing the split between benefits attained by shareholders and customers.

The largest single beneficiary of the remaining merger savings is the public sector which receives $172.6 million, or 29.3% of gross merger savings which is paid by the Company in the form of taxes. Reimbursement of shareholders for merger costs paid up front totals $86.9 million, or 14.7% of gross merger savings. $76.9 million, or 13.0% of gross merger savings, is eroded by the ten year amortization of shareholder reimbursement without a return being earned on the unamortized balance. This erosion incurred by shareholders is a direct benefit to customers.

Thus, on the whole (ignoring the distinction between benefits and reimbursements for shareholders), 39.9% of gross merger savings accrue to customers, 30.8% to shareholders, and 29.3% to the public sector. Benefits to the public sector accrue to all of our customers, causing public sector benefits to accrue more to customers than shareholders.

Note that the $182.0 million which accrues to shareholders in the form of benefits and reimbursement is in actuality well below the $273 million of merger costs they incurred up front. Under the Company's plan, shareholders are not made whole when taxes and the time value of money are considered, while customers retain millions of dollars of benefits in the first ten years and billions of dollars in the following twenty years. The fact that shareholders are not made whole is the reflection of the economic risks our shareholders are incurring from this transaction under the Company's proposal.

Q. Who are the ultimate recipients of benefits under the Staff's proposal?

A. First, I must reiterate that Staff's proposal is only valid through June 30, 1998 and provides no mechanism for shareholders to receive anything after that date. Even in a best case situation in which Staff's proposal is extended for a ten year period, as shown on Surrebuttal Schedule 3 attached to my testimony, shareholders would receive a minuscule 2.2% of gross merger savings for their benefit and 14.7% as reimbursement for costs. In total, this plan provides for the retention of only 36.6% of costs incurred up front by shareholders to consummate this merger and provides customers the benefit of $371.9 million of savings (63% of gross savings and 117% of net savings) in the first ten years and billions of dollars of savings in subsequent years. Prior to June 30, 1998, almost nothing could be accumulated for the benefit of shareholders.

Surrebuttal Schedule 4 compares the recipients of merger savings under the Company's and Staff's proposals. The Company fully believes that this schedule supports its proposal as the more equitable between customers and shareholders.

As indicated in the testimony of Mr. Craig Nelson, the Company has undertaken a detailed revision of savings expected upon consummation of the merger. Surrebuttal Schedule 5 shows the sharing of merger savings consistent with the Company's regulatory proposal utilizing the revised saving amount. As shown on this schedule, customers receive 53% of the gross savings, shareholders receive 11% as a reimbursement for merger-related costs and 13% as a benefit, while the public sector receives 23%.

Q. Is there anything else about Staff's proposal on which you wish to comment?

A. Yes. Staff witness Imhoff recommends no recovery of transaction costs which were expensed in 1995 and a twenty year amortization of the remaining transaction costs and costs to achieve. Thus, out of $41 million of total transaction costs and costs to achieve, Staff is recommending a twenty year amortization of $27.3 million, or $1,364,000 per year. Since the Company would get to retain only $818,000 of this amount after taxes, Staff's proposal allows recovery of only $6.2 million of the $41 million in transaction costs and costs to achieve on an after-tax basis considering the effects of the time value of money. This represents a recovery by shareholders of only 15.2% and is punitive to them for incurring these costs to bring about this proposed merger and concomitant merger savings. To prevent such a punitive recovery amount for shareholders, the Company requests that total transaction costs and costs to achieve be amortized over ten years. With ten year amortization of total costs, still only 32% of economic costs are actually received by shareholders.

Q. Mr. Oligschlaeger stated that the need to recover the return on the merger premium relies upon the assumption that the premium is an investment that would normally be placed in rate base. Is this correct?

A. No, it is not. The relevance of a return on the premium (which the Company is not seeking in this case) is merely a reflection of the time value of money. One who pays a dollar today is not made whole by the repayment of a dollar ten years from now. One way to make him or her whole is to pay a return on that dollar during the time the dollar has not been repaid. This only makes the provider of the payment whole considering the time value of money.

Q. Mr. Oligschlaeger also disagrees with the Company's proposal because he states that merger related synergies are no different from nonmerger related savings so that there is no good reason to differentiate between the two. Do you agree?

A. No, I do not. The difference between merger related synergies and nonmerger related savings is that merger related synergies were made possible only because shareholders have incurred a significant up front cost in order to make them possible. This is the reason to differentiate between the two, requiring a ratemaking mechanism to reimburse them for merger-related costs.

Q. At page 43 of his rebuttal testimony, Mr. Oligschlaeger recommends a minimum merger related credit of 25% if the Commission believes that some benefits of the merger always should be flowed through to customers under the ARP. Do you agree with this recommendation?

A. No, I do not. First, I reiterate that Staff is not recommending that such an adjustment be made. The minimum merger related credit is only offered if the Commission rejects their recommendation to share merger savings among customers and shareholders via the ARP without modification.

A minimum merger related credit to customers is not appropriate since customers have not paid any merger costs up front. Neither have any risks to customers increased from the merger. This is unlike the situation of our shareholders who are paying up front costs and who are undertaking the risk that they may never recover these costs. Not only would the use of a minimum merger related credit not allow shareholders to be reimbursed for their costs, but it would also have the effect of further penalizing shareholders for making benefits available to customers. And the reason for the shareholders' penalty would be for the reason that their earned return was too low. Thus, the use of a minimum merger related credit leads to a perverse result and should not be utilized.

SURREBUTTAL OF OFFICE OF PUBLIC COUNSEL (OPC) WITNESSES

Q. Turning now to the rebuttal testimony of OPC witness Kind, please address his conclusion that the Company believes that the merger will result in no dilution and that recognition of the merger premium in rates will only lead to "more accretion" than the alleged original analysis.

A. As previously stated in my rebuttal to Staff witness Featherstone, earnings dilution/accretion and retention of merger savings are inextricably entwined. His misunderstanding concerning Goldman Sachs' dilution/accretion calculations is demonstrated frequently throughout his testimony (e.g., at pages 4, 22, 28, 29, 34, 60, and 64). On pages 7-10 of my surrebuttal testimony to Mr. Featherstone above, I explain Goldman Sachs' calculations and their relation to the Company's regulatory proposal. These pages explain the flaws in Mr. Kind's conclusion that "if these revenue enhancement benefits were reflected in the pro forma financial analysis performed by Goldman Sachs, then this analysis would have been shown even more EPS accretion than the original analysis."

Q. Please address Mr. Kind's conclusion that all risks in the Company's regulatory plan are transferred to ratepayers.

A. As shown on my Surrebuttal Schedule 2 and described in pages 12-16 above in my surrebuttal testimony to Mr. Oligschlaeger, the Company's merger regulatory proposal subjects our shareholders to significant material economic risks. The Company's regulatory proposal results in the reimbursement of less than the costs actually incurred up front by shareholders in order to consummate the merger. In contrast, customers receive a net benefit of savings starting with the first year of the merger. Thus, Mr. Kind's statement that "OPC fails to find any risk for stockholders, only an outrageous level of guaranteed profits" is not based in fact.

Q. Please comment on the testimony of OPC witness Burdette.

A. Mr. Burdette spends much of his testimony advocating that market valuations and market premiums should not be included in rate base. I do not understand his emphasis on this issue since the Company is not requesting either a market value or market premium in rate base. He further states that the merger is "simply transferring ownership of used and useful utility assets" and it "does not increase the ability of those assets to provide public service."

The merger will enable us to provide public service more efficiently. Merger savings, synergies, and benefits are made possible by shareholders incurring the merger premium. This is no different than had the same efficiencies resulted from some conventional investment in hard assets. If there exist two means of achieving the same efficiencies - one from paying a merger premium and one from making an expenditure on hard capital goods - from an economic standpoint, any rational person should be indifferent as to which of the two options is actually undertaken, as long as the efficiencies and savings are similar.

Mr. Burdette also states that the companies assume Ameren's post-merger per share market price will be equal to the August 11, 1995 per share market price. This is not true. It is the relative difference between the two companies' market prices and the exchange ratios that determine the amount of the merger premium. We do not assume that the market price remains unchanged.

Q. Turning now to the testimony of Mr. Trippensee, please respond to his characterization of the merger premium as imaginary.

A. The very real economic and financial costs to shareholders resulting from the merger premium if unreimbursed from merger savings are described in my surrebuttal testimony to Mr. Featherstone at pages 1-4 above. Mr. Trippensee's assertions that the merger premium hinges on sales of additional shares of stock which may or may not occur, anticipated stock market profits, and assumptions of sales by current shareholders are not correct. The cost to shareholders arising from the merger premium is fully explained by two factors -- transfer of value from UE shareholders to CIPSCO shareholders and dilution of earnings per share to all Ameren shareholders due to the additional issuance of shares upon the exchange of UE and CIPSCO into Ameren common shares. These additional shares MUST be issued under the terms of the merger. If the merger is consummated, they will be issued; it is not a question of whether any sales of additional shares of stock may or may not occur.

Mr. Trippensee further claims that no premium exists because a premium is associated with gains and gains are taxed, contrary to the Companies' tax treatment. This is a gross misstatement of Federal tax law which generally provides for the payment of taxes on gains when they are realized, not when they are incurred. First, we are paying the premium in this case, not receiving it. Additionally, the merger premium is recognized for tax purposes whenever shareholders realize their gains or losses. However, the timing of the realizations is unrelated to their incidence.

Q. Mr. Trippensee claims that the merger merely results in a change of ownership of assets, not the value of the assets. Is this true?

A. As long as the merger results in savings which could not otherwise be attained and as long as all of these benefits are not passed along to customers, the merger will indeed result in a change in aggregate value of the assets. We are confident that at least $590 million of merger savings will be brought about due to the merger. We are requesting that a sufficient amount of these savings be used to reimburse shareholders for the costs they are incurring up front to effectuate this merger and for a sharing of remaining benefits among customers and shareholders.

Q. Does this conclude your rebuttal testimony?

A. Yes, it does.

Comparison of UE's Regulatory Proposal to Goldman Sachs' "Rule of Thumb" Assumption

(All Dollar Amounts Given in Millions)

Company Regulatory Proposal
(Source: Direct Testimony of Gary L. Rainwater, Schedule 8)

Summary of Shared Savings Plan	1997	1998
Net Merger Savings	$20.542	$21.638
Total Merger Costs	$17.693	$18.634
Plus 1/2 of Net Merger Savings	+10.271	+10.819
Net Allocation to Cost of Service	$27.964	$29.453

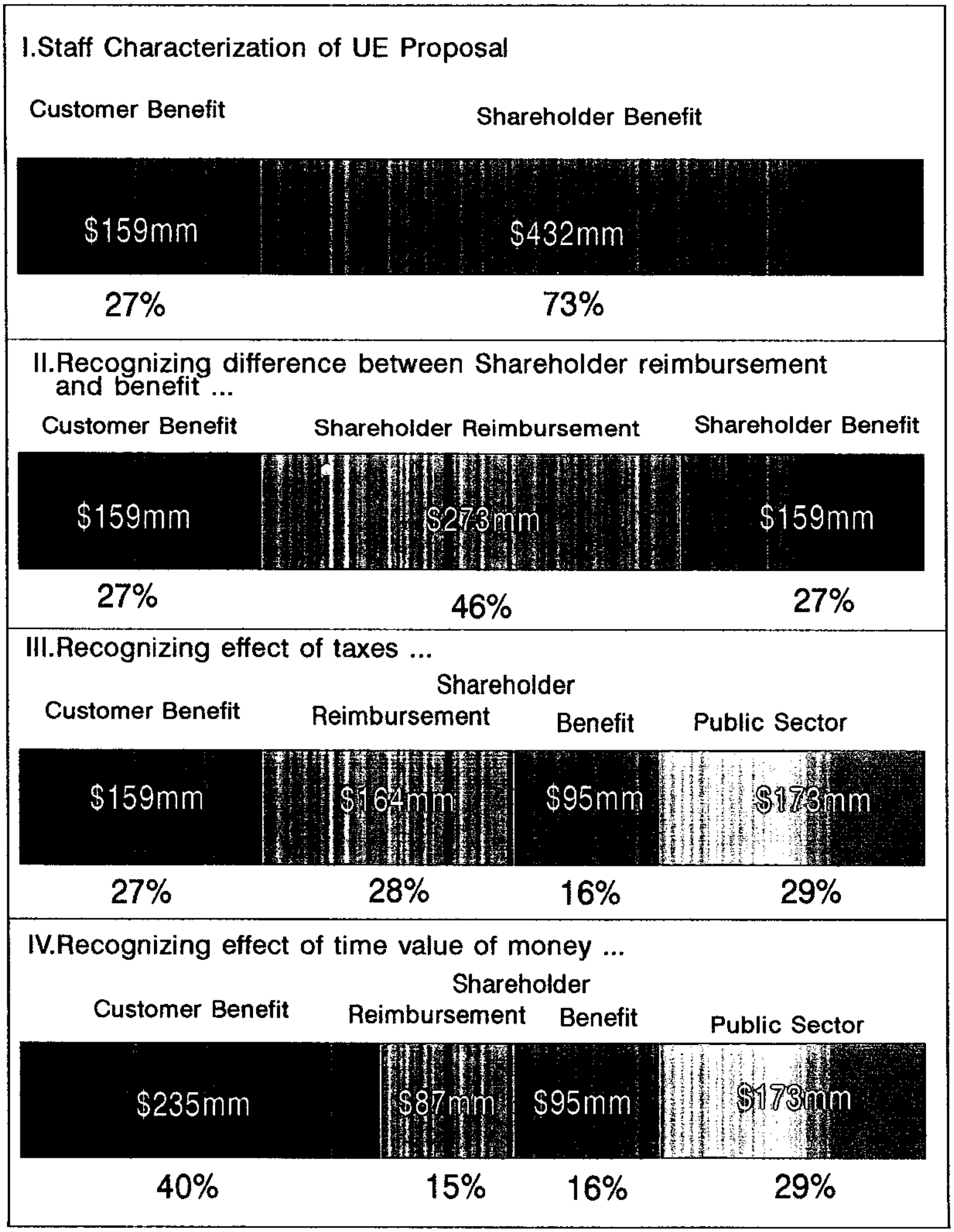
Goldman Sachs "Rule of Thumb" Assumption

		1997	1998
10-Year Merger Savings	$570		
1/10 allocated to each year		$57.0	$57.0
Annual Merger Savings		57.0	57.0
1/2 allocated to cost of service		$28.5	$28.5

	1997	1998
Annual Amount per Company Regulatory Proposal as a % of Goldman Sachs' "Rule of Thumb" Assumption	98%	103%

Shareholder/Customer Sharing Under UE Regulatory Proposal

Composition of Merger Savings



SHAREHOLDER/CUSTOMER SHARING UNDER UE REGULATORY PROPOSAL

(All dollar amounts given in millions)

		Customer Benefits	Shareholder Reimbursement	Shareholder Benefits	Public Sector (Taxes)	Total
	Staff Representation of UE Proposal					
(1)	Portion of gross merger savings	$158.5		$431.5		$590.0
		26.9%		73.1%		100.0%
	Recognition of difference between Shareholder Reimbursement and Benefit					
(2)	Portion of gross merger savings	$158.5	$273.0	$158.5		$590.0
		26.9%	46.3%	26.9%		100.0%
	(Source: Rainwater Testimonty Schedule 8)					
	Recognition of payment of taxes by Company on Shareholder portion					
(3)	Taxes paid by Company Line (2) times 40% effective tax rate		(109.2)	(63.4)	172.6	$0.0
(4)	Portion of gross merger savings	$158.5	$163.8	$95.1	$172.6	$590.0
	Line (2) + Line (3)	26.9%	27.8%	16.1%	29.3%	100.0%
	Recognition of Time Value of Money					
(5)	Transfer of value from shareholders to customers *	76.9	(76.9)			$0.0
(6)	Portion of gross merger savings	$235.4	$86.9	$95.1	$172.6	$590.0
	Line (4) + Line (5)	**39.9%**	**14.7%**	**16.1%**	**29.3%**	100.0%

* Calculated as per the table to the right:

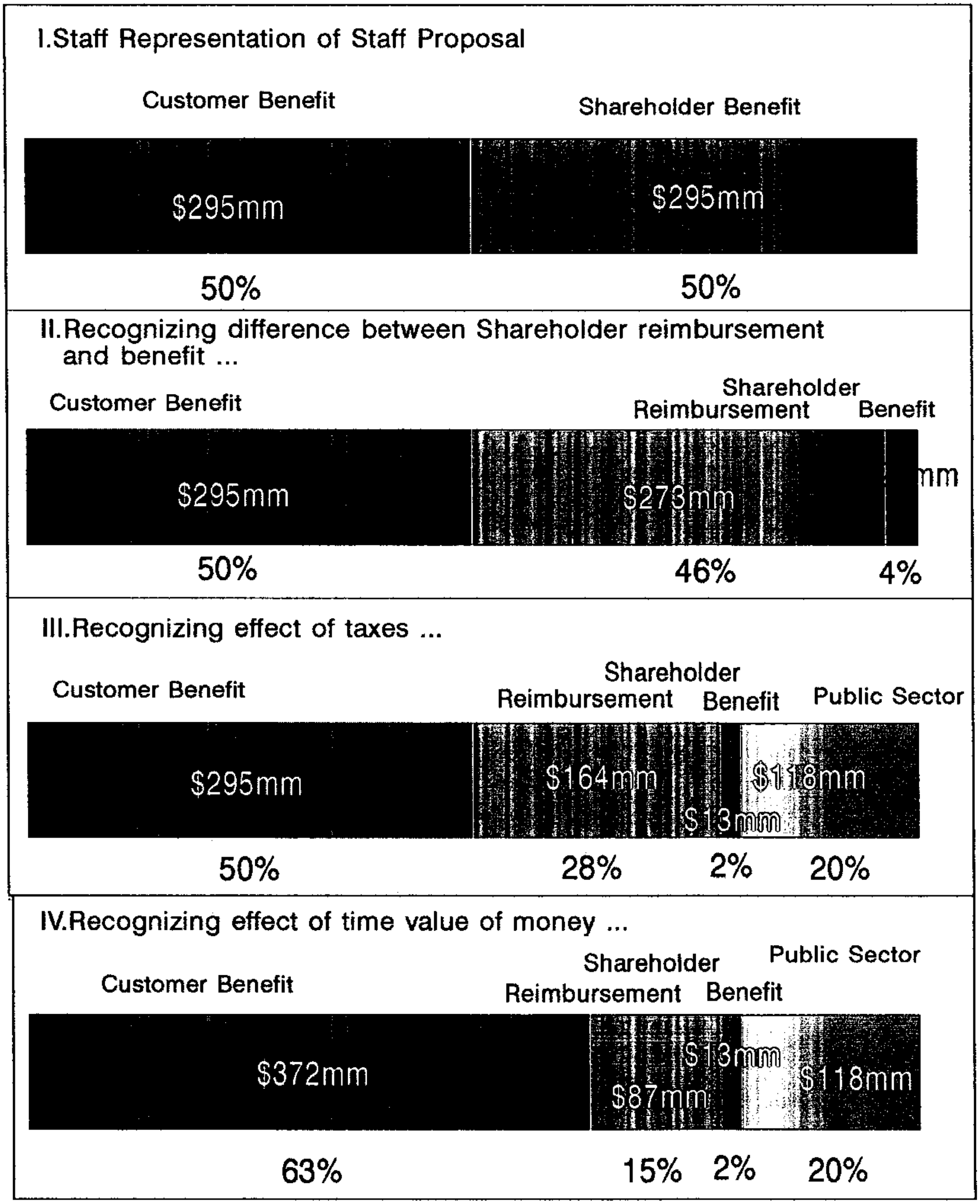
	Total Costs Rainwater Sch 8	Total Costs After 40% tax	Discounted After Tax Cost	After Tax Cost Less Dsct Cost
1997	17.693	10.616	9.504	1.112
1998	18.634	11.180	8.961	2.220
1999	21.617	12.970	9.307	3.664
2000	24.460	14.676	9.427	5.249
2001	27.938	16.763	9.640	7.123
2002	28.073	16.844	8.672	8.172
2003	29.293	17.576	8.101	9.475
2004	32.499	19.499	8.046	11.453
2005	35.195	21.117	7.801	13.316
2006	37.625	22.575	7.466	15.109
Total	273.027	163.816	86.925	76.891

Discount rate 11.7%

Source: Jay W. Moore Rebuttal Testimony, Schedules 10-12

Shareholder/Customer Sharing Under Staff Regulatory Proposal

Composition of Merger Savings

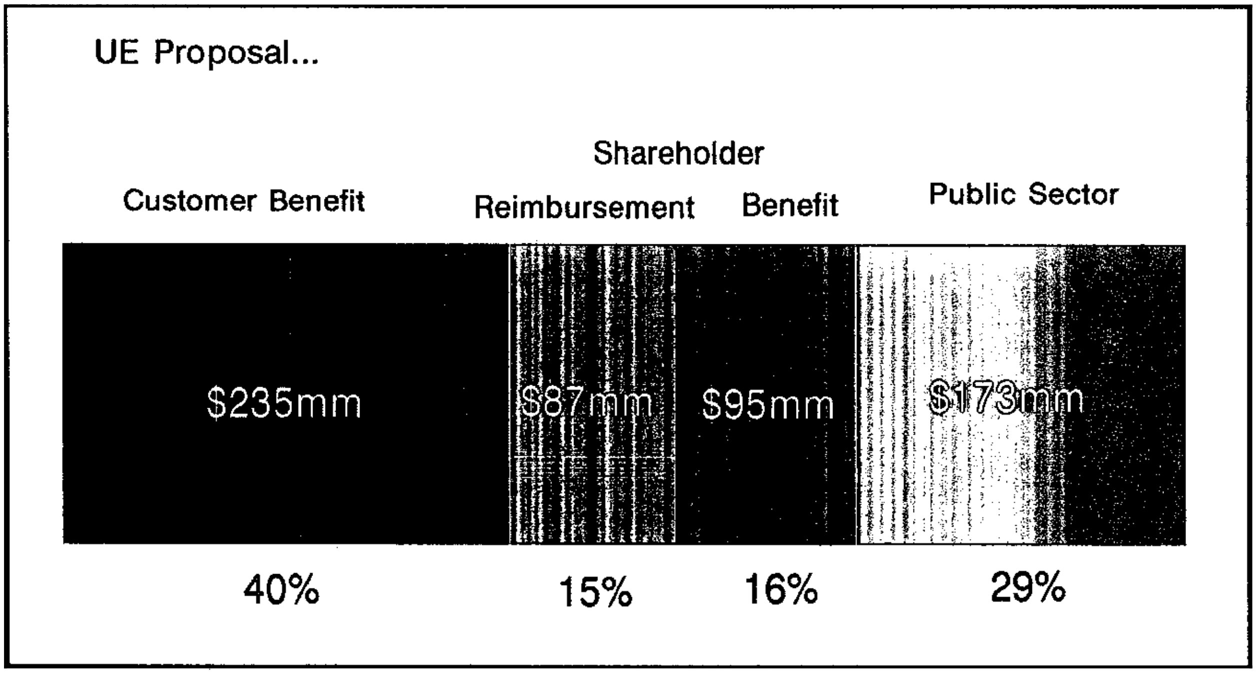


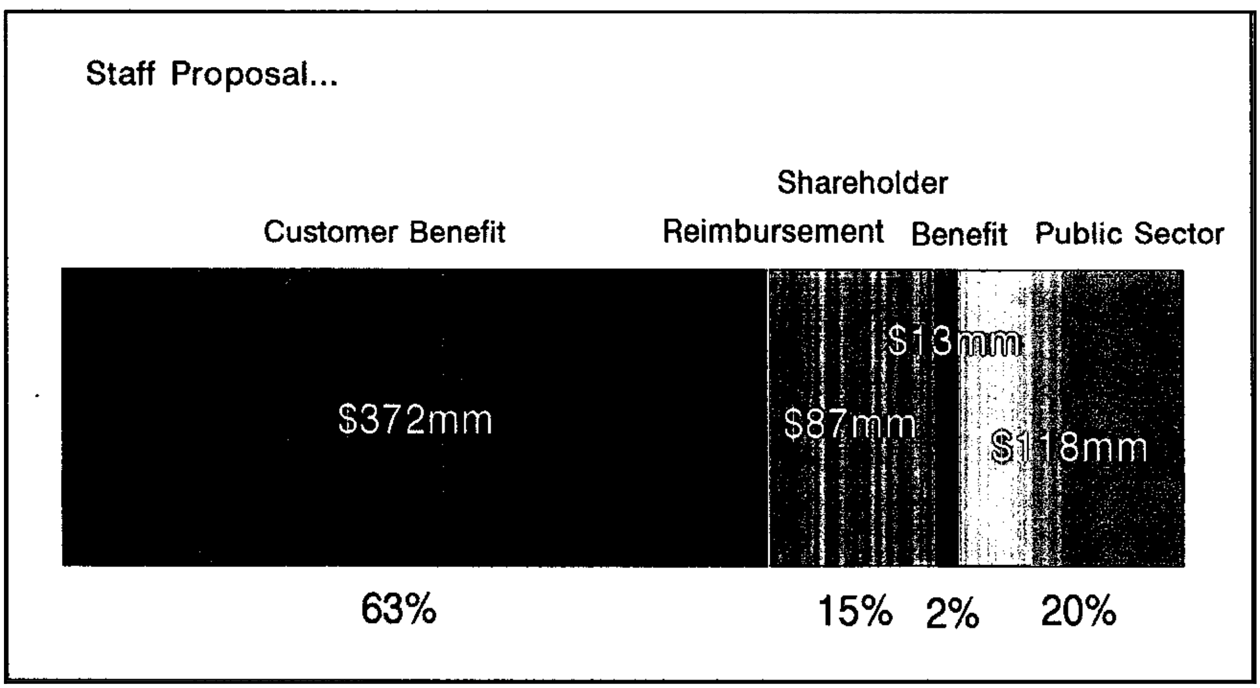
SHAREHOLDER/CUSTOMER SHARING UNDER STAFF REGULATORY PROPOSAL

(All dollar amounts given in millions)

		Customer Benefits	Shareholder Reimbursement	Shareholder Benefits	Public Sector	Total
	Staff Representation of Staff Proposal					
(1)	Portion of gross merger savings	$295.0		$295.0		$590.0
		50.0%		50.0%		100.0%
	Recognition of difference between Shareholder Reimbursement and Benefit					
(2)	Portion of gross merger savings	$295.0	$273.0	$22.0		$590.0
		50.0%	46.3%	3.7%		100.0%
	(Source: Rainwater Testimonty Schedule 8)					
	Recognition of payment of taxes by Company on Shareholder portion					
(3)	Taxes paid by Company Line (2) times 40% effective tax rate		(109.2)	(8.8)	118.0	$0.0
(4)	Portion of gross merger savings Line (2) + Line (3)	$295.0	$163.8	$13.2	$118.0	$590.0
		50.0%	27.8%	2.2%	20.0%	100.0%
	Recognition of Time Value of Money					
(5)	Transfer of value from shareholders to customers Source: Surrebuttal Schedule 2	76.9	(76.9)			$0.0
(6)	Portion of gross merger savings Line (4) + Line (5)	$371.9	$86.9	$13.2	$118.0	$590.0
		63.0%	**14.7%**	**2.2%**	**20.0%**	100.0%

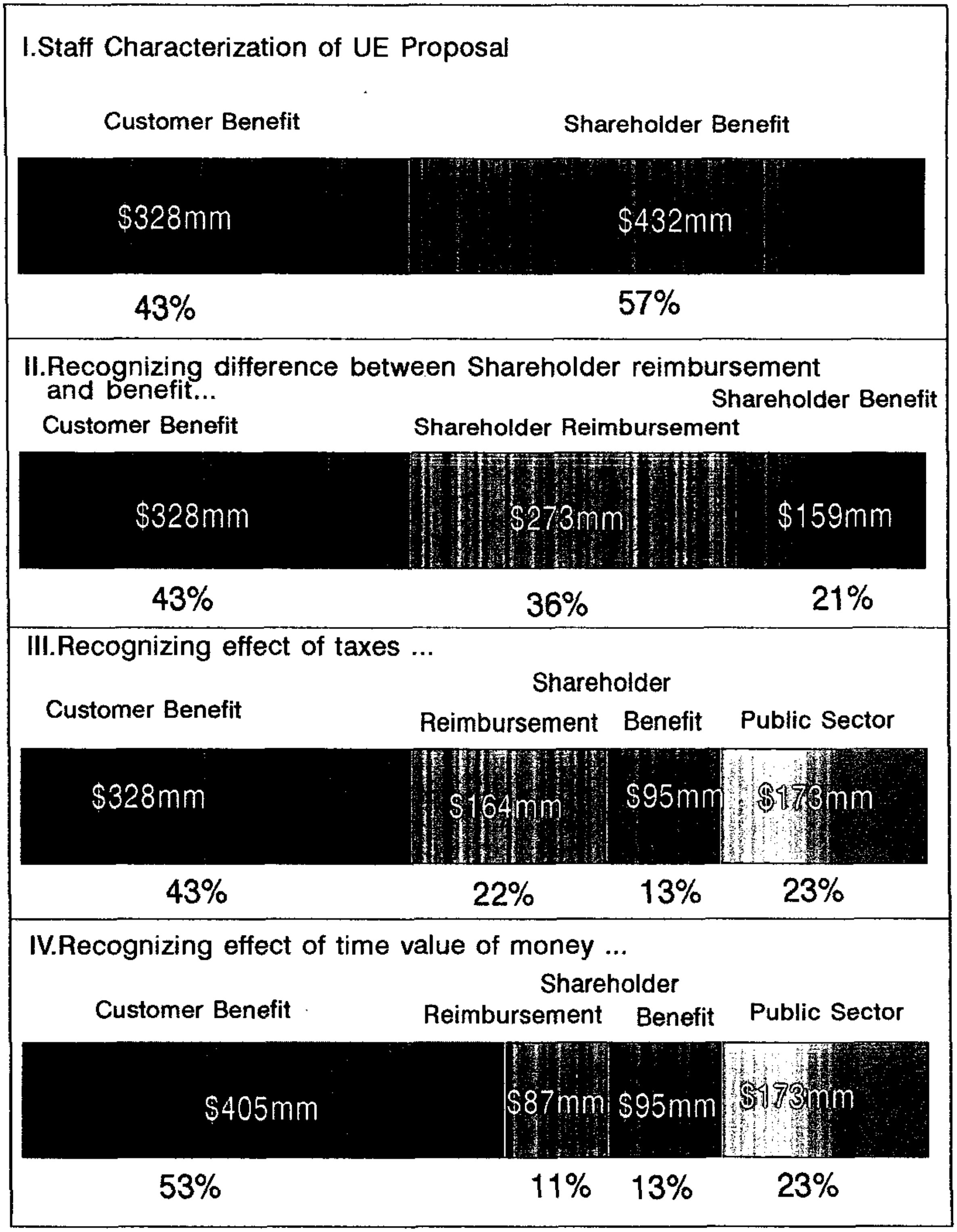
Comparison of Shareholder/Customer Sharing Under UE & Staff Proposals





Shareholder/Customer Sharing Under UE Regulatory Proposal

Recognizing Revised Savings Estimate



SHAREHOLDER/CUSTOMER SHARING UNDER UE REGULATORY PROPOSAL RECOGNIZING REVISED SAVINGS ESTIMATE

(All dollar amounts given in millions)

		Customer Benefits	Shareholder Reimbursement	Shareholder Benefits	Public Sector (Taxes)	Total
	Staff Representation of UE Proposal					
(1)	Portion of gross merger savings	$327.6		$431.5		$759.1
		43.2%		56.8%		100.0%
	Recognition of difference between Shareholder Reimbursement and Benefit					
(2)	Portion of gross merger savings	$327.6	$273.0	$158.5		$759.1
		43.2%	36.0%	20.9%		100.0%
	Recognition of payment of taxes by Company on Shareholder portion					
(3)	Taxes paid by Company Line (2) times 40% effective tax rate		(109.2)	(63.4)	172.6	$0.0
(4)	Portion of gross merger savings Line (2) + Line (3)	$327.6	$163.8	$95.1	$172.6	$759.1
		43.2%	21.6%	12.5%	22.7%	100.0%
	Recognition of Time Value of Money					
(5)	Transfer of value from shareholders to customers *	76.9	(76.9)			$0.0
(6)	Portion of gross merger savings Line (4) + Line (5)	$404.5	$86.9	$95.1	$172.6	$759.1
		53.3%	**11.4%**	**12.5%**	**22.7%**	100.0%