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and Infrastructure Tracker
Witness: Ronald C. Zdellar
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MISSOURI PUBLIC SERVICE COMMISSION

Case No. ER-2008-0318

SURREBUTTAL TESTIMONY

OF

RONALD C. ZDELLAR

ON

BEHALF OF

**UNION ELECTRIC COMPANY
d/b/a AmerenUE**

**St. Louis, Missouri
November, 2008**

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1 indicated that he would support a two-way tracker for costs incurred after the new rates were
2 effective, as long as the tracker was capped at \$50 million.

3 **Q. Do you agree with Mr. Beck's recommendations?**

4 A. Not completely. Before I get into some of the specific arguments Mr. Beck
5 set forth, I would like to address his testimony more generically. As the Commission is
6 aware, AmerenUE made the decision to comply with the Commission's new vegetation
7 management rules as of January 1, 2008. This was a full six months earlier than was
8 required by Commission rules.¹ While the Company had no legal obligation to begin its
9 compliance efforts early, it was in our customers' interests that we do so, and it was also
10 reasonable that we do so in view of our original expectation of the effective date of the rules,
11 which was delayed due to administrative error. My frustration is that Staff now takes the
12 position that because the Company started compliance early and because of previous
13 commitments in other dockets, Staff believes AmerenUE should be limited in the types of
14 recovery mechanisms available to it. It seems to run counter to the Commission's goal of
15 promoting good vegetation management practices to limit AmerenUE's ability to recover its
16 prudently incurred expenditures just because the Company began its compliance efforts
17 early. Mr. Beck agrees that complying with these rules is prudent. Beck deposition, p. 22,
18 l. 10-14 (October 31, 2008). He also agrees that the prudence comes from the vegetation
19 management activities, not from the rules being in effect. Beck deposition, p. 22, l. 2-10.
20 There is no hint in Mr. Beck's testimony that AmerenUE was imprudent or unreasonable in
21 beginning its vegetation management compliance activities early. Indeed, if anything, the

¹ The Commission's vegetation management rules would have gone into effect earlier but for an administrative error. Because of that error, the Commission had to "redo" its rulemaking process. The Company could have waited until July, 2008 to start its compliance efforts, but decided not to do so.

1 Company is bringing the benefits of these rules to its customers sooner than is required,
2 which would appear to be a prudent decision. It makes no sense to penalize AmerenUE for
3 starting to provide this benefit to its customers prior to the effective date of the rules.
4 Looking forward, these are still rules with which AmerenUE must comply and that
5 compliance will continue to require the Company to increase the amount of money it spends
6 on vegetation management.

7 **Q. Would you please address Mr. Beck's specific arguments?**

8 A. Mr. Beck argues that the dollar amount of vegetation management costs
9 incurred in the test year, as trued-up through September 30, 2008, is the appropriate level for
10 AmerenUE's future vegetation management expenses. Second, Mr. Beck recommends a cap
11 on spending that is required by the regulations. I believe Mr. Beck's positions on both of
12 these issues run counter to the very goals of the Commission in promulgating these rules and
13 should be rejected. Indeed, in Empire's recent rate case, the Staff also suggested a one-way
14 tracker (effectively capping what Empire could defer for later recovery in rates at a targeted
15 level), and the Commission rejected Staff's suggestion. The Commission noted that capping
16 the utility's ability to recover compliance costs at a fixed level "would give the company a
17 strong disincentive to spend the needed money."²

18 **Q. If the Commission uses the trued-up test year expenditures as the amount**
19 **to include in rates, wouldn't that be sufficient to capture AmerenUE's cost of**
20 **compliance with the Commission's new rules?**

21 A. No. AmerenUE's expenditures on vegetation management have increased
22 each quarter of 2008 and that trend is unlikely to reverse itself in the final quarter of the year.

² *Report and Order*, Case No. EO-2008-0093, p. 72.

1 An important driver of this increase is the steps AmerenUE has undertaken to comply with
2 the Commission's vegetation management rules. In our last rate case, Case No. ER-2007-
3 0002, the Commission placed \$45 million into AmerenUE's revenue requirement in a one-
4 way tracker (capped at \$45 million) as the best estimate of what would be required for
5 vegetation management work. Instead, in the trued-up test year, the Company has spent over
6 \$50 million, which exceeds Staff's proposed cap on vegetation management spend for next
7 year.

8 AmerenUE will be on schedule to have all of its distribution system trimmed
9 on a four year cycle for its urban areas and on a six year cycle for its rural areas (four/six year
10 cycle) by December 31, 2008. However, I will have to disagree with the assumption made
11 by Mr. Beck that reaching this goal will free up resources to comply with other portions of
12 the vegetation management rule. The agreement to trim on a four/six year cycle was reached
13 in Case No. EW-2004-0583. This resolution was reached in the first quarter of 2005 and it
14 has taken the agreed-upon four years (until December of 2008) for AmerenUE to reach the
15 goal. So while Mr. Beck is correct that the Company has completed the initial four year trim,
16 he is incorrect in asserting that those resources can now be dedicated to other purposes.
17 Instead, those resources will be required to maintain compliance with the Commission's new
18 regulations.

19 Additionally, the new rules do more than require a four/six year cycle for
20 vegetation management. They also set a minimum clearance distance, a requirement which
21 did not exist previously. Furthermore, they require mid-cycle inspections, customer
22 education efforts and notice to be given prior to trimming. None of these requirements were
23 in place prior to the Commission's new rules. All of these requirements impose additional

1 costs upon AmerenUE as it works towards compliance with the new rules. Other than the
2 four/six year cycle, these requirements were not part of AmerenUE's vegetation management
3 practices prior to January 1, 2008. As the Company gains experience with all of the new
4 requirements, the costs can and almost certainly will increase above the amount included in
5 the updated test year. For example, AmerenUE's service territory experienced record rainfall
6 during 2008 which has led to exceptional tree growth. The costs of removing this additional
7 vegetation growth (for both spot trimming as discovered during the mid-cycle inspections
8 and to meet the minimum clearance distance during the regular trim cycle) are likely to
9 create higher compliance costs in the future.

10 There is also likely to be an increased cost associated with off-easement
11 vegetation management efforts undertaken by AmerenUE. Hazard trees present very real
12 problems for electric utilities and the Commission's rule requires AmerenUE to promptly
13 remove or remedy the potential threat of these trees once they are identified. In order to
14 strike the appropriate balance between our customers' property rights and our need to remove
15 hazard trees, the Company increased its communication efforts about this issue with our
16 customers. As a result, the Company has found many locations along major circuits,
17 particularly in rural areas, where customers are willing to allow off-easement trimming and
18 tree removal. While the Company certainly removed off-easement trees in the past, these
19 efforts have only recently been ramped up to such an aggressive level. Accordingly, the total
20 cost of this effort is not reflected in the trued-up test year numbers. These are prudent
21 expenditures which should be recoverable by AmerenUE.

22 Finally, I would note that it is likely AmerenUE will make further
23 enhancements to its vegetation management program as part of its efforts to positively

1 impact the reliability of our distribution system. The vegetation management rule adopted by
2 the Commission sets forth the minimum vegetation management standards but requires the
3 Company to adopt and follow vegetation management standards which best implement the
4 rule. AmerenUE continues to evaluate its vegetation management program to identify
5 improvements which could positively impact the reliability of service provided to our
6 customers. Clearly, vegetation management isn't as simple as one-size-fits-all and the
7 Commission's rules recognize that fact. All of the costs associated with these efforts aren't
8 known at this time. A tracker will allow the Company to capture its true costs of vegetation
9 management for recovery at a later date rather than force it into a situation where it cannot
10 recover legitimate expenditures.

11 **Q. Didn't Mr. Beck point out that AmerenUE was already vertically clearing**
12 **its distribution lines prior to the effective date of the new rules?**

13 A. Yes, he did and he is correct. Implementation of that process also began prior
14 to the effective date of the Commission regulation which requires vertical clearance.
15 However, the cost of a full year of this activity is not reflected in the trued-up test year. The
16 vertical clearance requirement clearly adds significant costs because it requires removal of a
17 larger portion of a tree. The Company had estimated that this portion of the Commission's
18 vegetation management rules alone would cost AmerenUE an additional \$3.8 million.
19 AmerenUE's use of vertical clearance trimming has already contributed to the increase in
20 cost of its vegetation management program and will continue to be a major driver going
21 forward, at least until the Company completes a trim cycle with this new requirement.

1 **Q. Mr. Beck states that Staff is not opposed to a tracker, but that it should**
2 **be capped at \$50 million annually. Do you agree?**

3 A. I do not. First of all, even if AmerenUE were to accept a cap, the Company
4 has already spent more than \$50 million in the test year trued-up through September 30,
5 2008. I would ask the Commission to reject a cap on this tracker. Mr. Beck does not
6 indicate that he believes any of AmerenUE's current vegetation management practices are
7 imprudent or provide any reason to believe that AmerenUE would spend money on
8 vegetation management in a way that is wasteful. Especially at this point in time, when the
9 Commission rules are new, a cap is not needed and indeed, if costs are higher than estimated,
10 a cap would be counter to the goal of allowing a utility to recover its prudently incurred costs
11 of compliance with the Commission vegetation management rules. It would also create
12 exactly the wrong incentive, as the Commission has recognized as noted earlier.

13 **Q. Can you explain why you believe that to be true?**

14 A. No utility in Missouri knows exactly what it is going to cost to comply with
15 the Commission's new rules. To set a cap on expenditures, especially so early in the process
16 where there is not a solid history on which to base a cap, creates the possibility that a utility
17 will be forced to spend money in order to comply with the rules that it is prohibited from
18 recovering. I do not believe that scenario is one that this Commission would want to occur.
19 The imposition of a cap does not take into account the significant changes in environmental
20 conditions that can occur – after storms or flooding, there remains much vegetation
21 management work which is not classified as storm related clean up, after a rainy summer
22 there is abnormally high growth to be removed the following summer, etc. Certainly, a cap
23 could actually constrain work that would improve reliability of service to our customers

1 merely because it would not be recoverable by the Company in rates. This outcome may not
2 be intended by Mr. Beck but it certainly is possible and is inconsistent with the intent of the
3 Commission's vegetation management rules.

4 Of course, a cap, especially one that is close to the amount built into rates,
5 effectively turns a two-way tracker into a one-way tracker as the Company is forced to spend
6 money for which it is denied the opportunity to recover. Like Empire, AmerenUE is still in
7 the early stages of its efforts to comply with the new vegetation management rules and the
8 Company asks the Commission to allow it to recover those costs.

9 **II. INFRASTRUCTURE INSPECTIONS**

10 **Q. Are you familiar with Mr. Beck's rebuttal testimony in the area of**
11 **infrastructure inspections?**

12 A. I am. Mr. Beck supports the request for accounting authority to defer
13 compliance costs incurred before rates would take effect in this case for recovery in the next
14 rate case, although his recommended start date for the deferral is June 30, 2008. Mr. Beck
15 also supports a tracker to capture cost fluctuations going forward. However, he proposes that
16 the only costs included in the tracker are the actual costs of the inspections themselves. His
17 proposal is that any costs related to infrastructure system repairs stemming from the
18 inspections should not be included because of a risk of double recovery.

19 **Q. Does AmerenUE agree with Mr. Beck's recommendation?**

20 A. I believe there is a great deal of agreement between Mr. Beck and AmerenUE
21 on this issue. The Company agrees with Mr. Beck's recognition that the cost of the required
22 inspections will be an entirely new expense for the Company and agrees with his
23 recommendation of a two-way tracker to capture these expenditures. The areas of

1 disagreement are limited to a difference of opinion on the appropriate start date for the
2 accounting authorization and with his recommendation that the tracker not include
3 infrastructure inspection related repair costs.

4 **Q. You said that you disagree with the start date for the accounting**
5 **authorization. Can you explain the reason for your disagreement?**

6 A. Certainly. Mr. Beck believes the accounting authorization should begin on
7 June 30, 2008, the effective date of the infrastructure rules. Just as I stated in the vegetation
8 management section above, beginning the accounting authorization at this date does not seem
9 consistent with the intent of the Commission's rules and with the very purpose for the rules,
10 which is to promote utility activity which improves the reliability of the service provided to
11 customers. AmerenUE began some of these inspections as of January 1, 2008. Mr. Beck
12 agrees that complying with these rules is prudent. Beck deposition, pp. 63-64, l. 23-8. He
13 also agrees that the prudence comes from the actions taken by the utility to resolve problems
14 spotted during the inspections rather than just from having rules in place. Beck deposition,
15 pp. 62-63, l. 24-4. These are actions AmerenUE was undertaking as of January 1, 2008 and
16 these actions were prudent. Like the vegetation management rules, these rules would also
17 have been in effect several months earlier (well before July 1) but for an administrative error
18 during the Commission's rulemaking process. Providing AmerenUE the opportunity to
19 capture and recover these costs sends the appropriate signal to all of Missouri utilities.
20 Activities which promote the reliability of utility service should not be disregarded when it
21 comes to ratemaking treatment by the Commission.

22 **Q. Is there any area of disagreement with Mr. Beck's tracker**
23 **recommendation?**

1 A. Mr. Beck raises a question about double recovery of the repair costs which
2 AmerenUE has proposed to be included in a two-way tracker. The Company is sensitive to
3 Mr. Beck's concern, but believes his concern is misplaced and that it misapplies the rules.
4 Mr. Beck's argument is that system repairs occur as part of the normal course of business for
5 a utility, so to include those costs in the tracker would be to allow double recovery.
6 However, the idea that all of the O&M costs resulting from the Commission's infrastructure
7 inspection rule are already included in the revenue requirement cannot be true. These rules
8 require inspections that are new to all of Missouri's investor owned utilities. Beck
9 deposition, p. 53, l. 3-10. The purpose of the infrastructure inspection rules is to identify and
10 correct problems within a utility's infrastructure system and to identify and correct these
11 problems earlier than had been occurring under normal utility practice.³ The end result, it is
12 believed, is that the rules will lead to a general level of improved reliability. Beck
13 deposition, p. 52, l. 8-14. But for the inspections, AmerenUE would not make the repairs in
14 such a timely manner. I believe the likelihood of recovering the cost of any one repair
15 through rates and also through this tracker is minimal, if it would happen at all.

16 Mr. Beck might have a point if AmerenUE were planning on including the
17 O&M portion of all of its system repairs in this tracker, but it is not. Repairs that are a result
18 of a system failure or a customer calling in to report a concern will not be included in the
19 tracker. Those costs, which are already in rates, would be recovered twice under that
20 scenario. However, that is not AmerenUE's proposal. Only the O&M costs associated with
21 items discovered during the required inspections will be included in the tracker. AmerenUE

³ The Commission has recognized that the "rules establish specific standards requiring electric utilities . . . to inspect and replace old and damaged infrastructure, such as poles and transformers. *Report and Order*, Case No. Eo-2008-0093, p. 66.

1 has set up a process to ensure it tracks only the costs associated with repairs identified during
2 the required inspections. In this way, I believe we avoid the concern Mr. Beck has raised.

3 **Q. Is there any other aspect of this double recovery concern which you'd like**
4 **to address?**

5 A. Because the required inspections of some facilities (underground facilities and
6 streetlights) have not yet started and likely won't start until January of 2009, there are no
7 costs associated with these inspections in AmerenUE's current rates and therefore there is
8 even less risk of double recovery associated with those repairs.

9 **III. VEGETATION MANAGEMENT AND INFRASTRUCTURE INSPECTION**

10 **COSTS**

11 **Q. There have been several different cost estimates for AmerenUE's**
12 **vegetation management and infrastructure inspection programs which have been**
13 **provided in this case. To resolve any confusion that may exist, can you provide**
14 **AmerenUE's most current estimate of the future costs of compliance as well as the**
15 **actual costs in the trued-up test year?**

16 A. Certainly. I would first point out that the vegetation management costs
17 previously provided by AmerenUE did not include program costs such as internal labor,
18 annual education and pre-notification expenditures. I believe that to be an error. I apologize
19 for the oversight, but believe we now have the correct cost number. Certainly, internal labor
20 costs are already in base rates. However, to ensure these costs are tracked appropriately, it is
21 necessary to include all costs in the base amount of the tracker. In this case, that means the
22 Commission should start with a base cost of all vegetation management (internal and external
23 costs) and track future costs (internal and external) against that base.

1 Backing up just a bit, AmerenUE is requesting three types of treatment for its
2 vegetation management and infrastructure costs. We are requesting the ability to amortize
3 over three years the compliance costs which are above the amount included in the
4 Company's current rates and incurred between January 1, 2008 and September 30, 2008.
5 That cost is \$12.05 million, which breaks down into an additional \$3.45 million for
6 vegetation management and an additional \$8.6 million for infrastructure inspection and
7 repairs. We would propose to begin collecting that amortization in rates set in this rate case.

8 AmerenUE is also requesting an accounting authorization for the additional
9 costs of compliance with the new Commission rules incurred between October 1, 2008 and
10 February 28, 2009. Those costs would be considered in AmerenUE's next rate case.

11 Finally, AmerenUE requests a two-way tracker for vegetation management
12 and infrastructure inspection rule related costs incurred after the order in this rate case.
13 AmerenUE believes the base of this tracker should be set at \$78 million, of which \$54.2
14 million is vegetation management costs and \$23.9 million is infrastructure inspection and
15 repair costs. The costs incurred during the trued-up test year were \$61.3 million, of which
16 \$50.6 million was spent on vegetation management and \$10.7 million was spent on
17 infrastructure inspections and repair. For the base amount of the tracker, AmerenUE believes
18 the Commission should add \$16.7 million -- \$3.5 million to the trued-up test year number for
19 expected vegetation management costs and \$13.2 million to the trued-up test year number for
20 expected infrastructure inspection and repair costs.⁴ The detail of these costs is attached as
21 Schedule RCZ-SE3.

⁴ Again, these numbers are slightly different than those in my rebuttal testimony because of not including the cost of internal labor, annual education and pre-notification expenses.

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

2 **A. Yes, it does.**

AmerenUE
 Surrebuttal Testimony Support
 (\$ in millions)

	<u>2009 Forecast</u>	<u>2010 Forecast</u>	<u>'09-'10 2 year average</u>	<u>12 months Ended 9/30/08</u>	<u>Difference</u>
Vegetation Management:					
Vegetation mgmt Subtotal	\$53.2	\$54.9	\$54.1	\$50.6	\$3.5
Infrastructure:					
Inspections Subtotal	8.5	8.8	8.7	5.6	
URD Inspections Subtotal	1.6	1.6	1.6	0.0	
Streetlight Inspections Subtotal	<u>0.4</u>	<u>0.4</u>	<u>0.4</u>	<u>0.0</u>	
Inspections subtotal	10.5	10.8	10.7	5.6	5.1
Reliability Repairs Subtotal	8.0	8.2	8.1	5.1	
URD Repairs Subtotal	4.0	5.5	4.8	0.0	
Streetlight Repairs Subtotal	<u>0.3</u>	<u>0.3</u>	<u>0.3</u>	<u>0.0</u>	
Repairs subtotal	12.3	14.0	13.2	5.1	8.1
Proposed Tracker Total			<u><u>\$78.0</u></u>		