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Exhibit No.:

Issues: Alternative Regulation
Plan Agreements

Witness: Robert E. Schallenberg

Sponsoring Party: MoPSC Staff

Type of Exhibit: Surrebuttal Testimony

Case No.: EM-96-149

MISSOURI PUBLIC SERVICE COMMISSION

UTILITY SERVICES DIVISION

SURREBUTTAL TESTIMONY

OF

ROBERT E. SCHALLENBERG

UNION ELECTRIC COMPANY

CASE NO. EM-96-149

Jefferson City, Missouri
April 1999

1 **SURREBUTTAL TESTIMONY**

2 **OF**

3 **ROBERT E. SCHALLENBERG**

4 **UNION ELECTRIC COMPANY**

5 **CASE NO. EM-96-149**

6 Q. Please state your name and business address.

7 A. Robert E. Schallenberg, Truman State Office Building, 301 West High
8 Street, Room 840, Jefferson City, Missouri, 65101.

9 Q. By whom are you employed and in what capacity?

10 A. I am the Director of the Utility Services Division of the Missouri Public
11 Service Commission (MoPSC).

12 Q. Please describe your educational background.

13 A. I am a 1976 graduate of the University of Missouri at Kansas City with a
14 Bachelor of Science and major emphasis in Accounting. In November 1976, I
15 successfully completed the Uniform Certified Public Accountant (CPA) examination and
16 subsequently received the CPA certificate. In 1989, I received my CPA license in
17 Missouri. I began my employment with the Missouri Public Service Commission as a
18 Public Utility Accountant in November 1976. I remained on the Staff of the Missouri
19 Public Service Commission until May 1978, when I accepted the position of Senior
20 Regulatory Auditor with the Kansas State Corporation Commission. In October 1978, I
21 returned to the Staff of the Missouri Public Service Commission. Most immediately prior
22 to October 1997, I was an Audit Supervisor/Regulatory Auditor V. In October 1997, I

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1 began my current position as Division Director of the Utility Services Division of the
2 MoPSC.

3 Q. Please describe your responsibilities and experience while employed at the
4 MoPSC as Regulatory Auditor V?

5 A. As a Regulatory Auditor V for the MoPSC, I had several areas of
6 responsibility. I was required to have and maintain a high degree of technical and
7 substantive knowledge in utility regulation and regulatory auditing. Among my various
8 responsibilities as a Regulatory Auditor V were:

9 1. To conduct the timely and efficient examination of the accounts, books,
10 records and reports of jurisdictional utilities;

11 2. To aid in the planning of audits and investigations, including staffing
12 decisions, and in the development of Staff positions in cases to which the Accounting
13 Department of the MoPSC was assigned, in cooperation with management and other
14 Staff;

15 3. To serve as lead auditor, as assigned on a case-by-case basis, and to
16 report to the Assistant Manager-Accounting at the conclusion of the case on the
17 performance of less experienced auditors assigned to the case, for use in completion of
18 annual written performance evaluations;

19 4. To assist in the technical training of other auditors in the Accounting
20 Department;

21 5. To prepare and present testimony in proceedings before the MoPSC and
22 the Federal Energy Regulatory Commission (FERC), and aid MoPSC Staff attorneys and

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1 the MoPSC's Washington, D.C. counsel in the preparation of pleadings and for hearings
2 and arguments, as requested; and

3 6. To review and aid in the development of audit findings and prepared
4 testimony to be filed by other auditors in the Accounting Department.

5 The MoPSC relies on the Regulatory Auditor V position to be able to present and
6 defend positions both in filed testimony and orally at hearing. I have had many occasions
7 to present testimony before the MoPSC on issues ranging from the prudence of building
8 power plants to the appropriate method of calculating income taxes for ratemaking
9 purposes. I have worked in the area of telephone, electric and gas utilities. I have taken
10 depositions on behalf of the Missouri Commission. Attached as Schedule 1, is a listing of
11 cases and issues on which I have worked at the MoPSC. My responsibilities were
12 expanded to assist in federal cases as assigned, which I am still doing.

13 Q. Have you previously submitted testimony in proceedings before the
14 Federal Regulatory Energy Commission (FERC)?

15 A. Yes. I submitted testimony in Docket Nos. RP94-365, RP95-136,
16 RP96-173, et. al. These are cases involving Williams Natural Gas Company (WNG).
17 WNG provides gas transportation and storage services for local distribution companies
18 serving the western portion of Missouri. WNG provides service to Missouri Gas Energy
19 which serves the Kansas City area. My testimony in Docket No. RP94-365 involved a
20 prudence challenge of the costs that WNG sought to recover in that case. I also filed
21 testimony regarding certain cost of service issues in Docket No. RP95-136, WNG's
22 current rate case before the FERC. These issues included affiliated transactions between
23 WNG and its parent. I filed testimony in Docket No. RP96-173, et. al., on the issue of

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1 whether the costs in question met FERC's eligibility criteria for recovery under FERC
2 Order No. 636.

3 I submitted testimony in Docket No. RP96-199. This case is Mississippi River
4 Transmission (MRT) Corporation's current rate case. MRT provides gas transportation
5 and storage services for local distribution companies serving the eastern portion of
6 Missouri. MRT provides service to Laclede Gas Company which serves the St. Louis
7 area. My testimony in Docket No. RP96-199 involved cost of service issues. These
8 issues included affiliated transactions between MRT and its parent.

9 Q. During your career have you been involved in the negotiation and drafting
10 of agreements between the MoPSC and the utilities under its jurisdiction?

11 A. Yes. I have been involved in negotiations in practically every case in
12 which I have been involved. I have been involved in either the actual drafting of language
13 or the review of language of each stipulation and agreement in these cases related to
14 revenue requirement issues. This experience began with my first rate case involving
15 Kansas City Power & Light Company, in Case No. ER-77-118. I am currently involved
16 in a FERC settlement conference. Staff member Carmen Morrissey and I are negotiating
17 on behalf of the Commission in Washington, D.C., regarding several pipeline cases
18 involving WNG.

19 Q. What is the purpose of your testimony in this proceeding?

20 A. The purpose of my testimony is to address the assertions of Union Electric
21 Company (UE or Company) witness Donald E. Brandt and Warner L. Baxter that the
22 Staff has proposed adjustments that violate the Company's Experimental Alternative
23 Regulation Plan (EARP) approved by the Commission as part of the Stipulation and

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1 Agreement in Case No. ER-95-411. I do not specifically address the assertions of
2 Benjamin A. McKnight because he bases his testimony on Mr. Brandt's testimony. I will
3 also address specific statements of Messrs. Brandt, Baxter and McKnight.

4 The Staff is willing to meet with UE and discuss a renegotiation of EARP, but not
5 on the basis reflected in UE's rebuttal testimony. UE's rebuttal testimony does not reflect
6 the Staff's understanding of UE's EARP at the time the agreement was reached and
7 presented to the Commission for adoption.

8 Q. What background do you have that is relevant to the dispute concerning
9 the meaning of the language in the EARP?

10 A. There are three elements of my background that are relevant to the issue in
11 question. First, I was the Staff member principally involved in the negotiation of the
12 earnings determination and monitoring language in the Southwestern Bell Incentive
13 Regulatory Experiment (SBIRE) in Case No. TO-90-1, *In the Matter of an Incentive*
14 *Plan for Southwestern Bell Telephone Company*. SBIRE was the only alternative
15 earnings regulation plan approved by the Commission prior to the UE EARP in Case No.
16 ER-95-411.

17 Second, I was one of two Staff members that performed the monitoring function
18 on behalf of the Staff during the life of SBIRE.

19 Third, I was consulted and questioned by Staff directly involved in the EARP's
20 negotiation. I was sent drafts of the Staff draft agreements developed during these
21 negotiations.

22 Q. How is this experience relevant to a dispute involving Union Electric's
23 EARP?

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1 A. The Staff made representations prior to EARP's adoption that it intended
2 to operate the monitoring functions in a manner consistent with its past experience under
3 SBIRE. The language in UE's EARP regarding earnings determination and monitoring
4 clearly appears to be based on the language contained SBIRE. There are several factors
5 that support this statement. The first factor is UE's mention of its use of SBIRE to draft
6 its initial proposal regarding an experimental alternative regulation plan. Mr. Brandt
7 refers in his rebuttal testimony at page 8, lines 22-23 that: "[I]n January 1995, the
8 Company submitted a proposal to the Staff." This January 1995 proposal contains the
9 statement at page 3 under the heading "SHARE THE SAVINGS PROPOSAL" that "w[e]
10 have developed a proposal (loosely based in concept on the Southwestern Bell plan) that
11 would provide for the sharing of earnings...." Mr. Brandt signed the cover letter that
12 conveyed UE's January 27, 1995 sharing proposal to the Staff.

13 A second factor is the statements of Staff counsel (Mr. Dottheim) and UE's
14 counsel (Mr. Cook) on July 19, 1995, at the on the record presentation of the Stipulation
15 and Agreement in Case No. ER-95-411. Staff counsel indicated that it was the Staff's
16 intent to monitor UE in the manner that the Staff had monitored Southwestern Bell in
17 Case No. TO-90-1:

18 [Dottheim] Part of the Stipulation and Agreement set out therein and in
19 Attachment C is a rigorous monitoring of utilities' [sic] financial data
20 similar to the monitoring of Southwestern Bell experimental alternative
21 regulation plan. [Transcript, Vol. One, p.13, Case No. ER-95-411]
22

23 [Cook] I'm not going to go through the various terms of the document.
24 Mr. Dottheim has presented those very thoroughly... [Transcript, Vol.
25 One, p.18, Case No. ER-95-411]
26

27 [Cook] Just a few points that Mr. Dottheim raised that I would like to
28 indicate our agreement with — not that I disagree with the things that I

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1 don't mention but a couple that I do want to highlight—[Transcript, Vol.
2 One, pp.19–20, Case No. ER–95–411]

3
4 [Dottheim] I think there is also provision for, if any dispute, disagreement
5 arises, problems from our perspective, we may bring it to the Commission
6 for a resolution. And hopefully that situation will not occur.

7
8 [Dottheim] The language of much of this phase or portion of the
9 Stipulation and Agreement tracks the language in the Southwestern Bell
10 settlement agreement that effectuated in 1989, if my memory serves me
11 correctly, which led to the establishment of the alternative regulation plan
12 for Southwestern Bell and a monitoring by the Staff. [Transcript, Vol.
13 One, p.36, Case No. ER–95–411]

14
15 I can find no UE statement in the transcript of the on the record presentation
16 where UE notified the Commission that if Staff followed its SBIRE monitoring practices
17 it would be in violation of the EARP provisions. I would note that Mr. Brandt was
18 present at the July 19, 1995, presentation of the Stipulation And Agreement in Case No.
19 ER–95–411. At no time during this presentation did he present the interpretation of the
20 monitoring procedures that he and Mr. Baxter allege in their rebuttal testimony were part
21 of the Stipulation And Agreement in Case No. ER–95–411. In fact, there are no language
22 changes or documentation contained in the drafts of the Stipulation And Agreement
23 exchanged between Staff and UE, which I have reviewed, that support these allegations
24 and interpretations. The discussion of the definition of the term “manipulation”
25 contained in UE’s rebuttal testimony (e.g., Mr. Baxter, page 15, line 15 through page 16,
26 line2) is not contained in any of the drafts exchanged between Staff and UE.

27 In response to a UE data request, Staff provided the Company its draft documents
28 from the EARP negotiations. A February 15, 1995, internal Staff memorandum, which
29 has been provided to UE through this discovery, states:

30 “If they have not already done so, Doyle [Gibbs] and Steve [Rackers]
31 need to review the monitoring procedures utilized the SWBT incentive

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1 regulation experiment to determine if we have forgotten any thing that
2 needs to be added to our counterproposal to UE. For instance, the SWBT
3 monitoring procedures indicate that in the last year of the incentive
4 regulation experiment, SWBT was to provide additional reports and data.
5 Is that situation applicable to the UE situation? If it is, what are the
6 additional reports and data that we should require UE to provide in the last
7 year of an incentive regulation plan?"
8

9 This quote shows that the Staff viewed the monitoring procedures from the perspective of
10 its SBIRE experience.

11 The third factor is a comparison of the language in the UE EARP to the language
12 in the SBIRE documents which are contained in the Joint Recommendation To Approve
13 Revised Incentive Regulation Experiment For Southwestern Bell Telephone Company in
14 Case No. TO-90-1.

15 I am addressing the agreement violation issue related to the calculation of sharing
16 period earnings issue. Mr. Brandt refers to certain EARP sections to support his
17 allegations of Staff violations of the EARP agreement. These sections are page 16, lines
18 16-25; page 9, lines 9-15; page 18, lines 13-17; and page 19, lines 3-14. The EARP
19 sections that Mr. Brandt refers to in his testimony were initially developed in SBIRE. The
20 inferences and assumptions that Mr. Brandt asserts regarding his interpretation of EARP
21 language to support his allegations of Staff violations were never contemplated, let alone
22 agreed upon, when the relevant language was developed in Case No. TO-90-1.

23 I would note that Mr. Brandt refers to his EARP interpretations as being based on
24 his background as an accountant. He specifically notes this on page 24, lines 21-22 and
25 page 27, lines 18-20. The Staff individuals that he lists as having negotiated the EARP
26 terms are not accountants. Mr. Brandt identifies these individuals on page 9, lines 8-11 of
27 his rebuttal testimony. Therefore, Mr. Brandt should not assume that these individuals

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1 viewed and agreed to the terms from his perspective. Mr. Brandt was aware of SBIRE. It
2 would be unreasonable for him to conclude that Staff would view the terms differently
3 from how they were actually followed under SBIRE which, at the time, was the only
4 experimental alternative regulation plan adopted by the Commission. It would be
5 unreasonable for Mr. Brandt to conclude that the Staff would implicitly adopt his
6 interpretations over the actual SBIRE experiences without express formal agreements on
7 these matters.

8 Q. Were there individuals involved in the process of negotiating the UE
9 EARP other than those identified by Mr. Brandt on page 9, lines 8–11 of his rebuttal
10 testimony?

11 A. Yes. There were also Staff accountants involved in the negotiation
12 process. These were Doyle Gibbs, Mark Oligschlaeger and Steve Rackers. Mr. Dottheim
13 performed a majority of the Staff's drafting. In fact, Mr. Brandt acknowledges both
14 Doyle Gibbs and Steve Rackers in his listing of individuals that he and UE wanted to
15 personally thank for their EARP efforts, also Steven Dottheim, at the July 19, 1995 on the
16 record presentation of the Stipulation And Agreement in Case No. ER-95-411
17 [Transcript, Vol. One, p.27, Case No. ER-95-411]. There were other individuals
18 involved on behalf of Staff, but they evidently were not involved in the various aspects of
19 the EARP negotiations.

20 Q. What was your role in the negotiation of the earning determination and
21 monitoring language in SBIRE?

22 A. I was instructed by the General Counsel of the Commission to negotiate an
23 "effective monitoring" scheme to be used to implement the conceptual agreement

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1 reached between the Commission, Southwestern Bell, and the Office of the Public
2 Counsel (OPC) related to the appeal and stay of Case No. TC-89-14, et al. This case was
3 the 1988-1989 earnings complaint case filed by the Staff in 1988 respecting
4 Southwestern Bell. I was the Staff technical person working with Commission attorneys
5 to draft an agreement concerning the earnings determination and monitoring that would
6 take place under SBIRE.

7 I was concerned about the amount of unchallenged discretion that Southwestern
8 Bell would exercise in the recording of specific items so as to reduce credits due to
9 customers. I expressed concern about the use of terminology for which it might be
10 asserted that a showing of intent was required. If intent was an operable concern related
11 to accounting entries, it was my view that effective monitoring would be nonexistent.
12 This belief was based on my perception that it would be practically impossible to expect
13 that any company would document it made an entry on its books with the express
14 purpose to understate earnings. The issue should actually center on the appropriateness of
15 the various accounting entries made in a given year given the facts and circumstances
16 existing at the time.

17 The language respecting SBIRE attempted to specify examples of appropriate
18 areas of inquiry. These examples were listed to show that the term "manipulation" in the
19 agreement was not intended to be limited to the "cooking the books" type definition that
20 Mr. Brandt uses on page 16, line 15 of his rebuttal testimony. However, there was never
21 produced an exhaustive list of the conditions that would justify adjustments, nor could
22 there be. Thus, the term "manipulation" is not defined in SBIRE and issues as to earnings
23 entries were to be given to the Commission to decide. The thought was that once an issue

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1 was taken to the Commission, the Commission then would decide how the item was to be
2 treated in the calculation of earnings.

3 Q. Can you provide an example that illustrates the SBIRE discussions
4 regarding the term "manipulation?"

5 A. Yes. There is an issue in this case regarding the Staff's position that UE
6 should capitalize certain computer costs. Regarding this issue, there is discussion in UE's
7 rebuttal testimony of a policy to expense these expenditures. However, it is the Staff's
8 position that it is expected that a company would continually evaluate its policies to
9 ensure that they are still appropriate whether it was operating under an experimental
10 alternative regulation plan or not. The fact that a company has historically treated a cost a
11 certain way does not mean that it will always be appropriate to continue to do so. This is
12 especially true regarding a category of costs such as computer costs. The Staff believes
13 that current facts and conditions support a change in the policy. However, the concern
14 respecting SBIRE was that a company would purposefully delay making these changes so
15 that earnings levels would not be increased resulting in greater customer credits.

16 There is a discussion in UE's rebuttal testimony of the implementation of
17 Statement of Position 98-1 (SOP 98-1). I understand that this accounting
18 pronouncement will result in greater capitalization of computer costs for financial
19 reporting purposes in the future. It is noted in Mr. McNight's rebuttal testimony on page
20 19, lines 17-18, that SOP 98-1 was not effective until January 1, 1999, although earlier
21 adoption was encouraged in SOP 98-1. SBIRE considered the possibility that a company
22 would delay or postpone implementation of such an accounting change until the last
23 possible moment with the effect of keeping earnings low. The flexibility in the language

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1 in the agreement was that the issue of intent was not required to be addressed because the
2 issue would be presented to the Commission to determine the appropriate treatment if the
3 parties failed to reach a resolution.

4 I would note that the Staff's proposed computer software adjustments would be
5 appropriate and valid under the UE EARP for the reasons identified by Staff witness
6 Arlene Westerfield in the direct and surrebuttal testimony even if SOP 98-1 had never
7 been issued.

8 Q. Did Staff raise any concerns with UE regarding possible attempts by the
9 Company to restrict EARP monitoring?

10 A. Yes. An April 4, 1995, letter from Mr. Dottheim to Mr. Cook includes the
11 following statement:

12 "(5) Section 3.e, page 5 - Staff is strongly opposed to the language
13 substituted by UE in Section 3.e. because of concern on the part of the
14 Staff that UE places or will place on Staff's activities an unacceptably
15 restrictive interpretation of monitoring. Staff suggests that the word
16 "reasonably" in the third line of Section 3.e. be dropped, not because Staff
17 intends to be unreasonable, but because of concern that from the start UE
18 views Staff and OPC monitoring procedures as likely constituting
19 "unreasonable" activity. Staff notes that UE has added language to Section
20 3.f. viii., page 8 ("requests for information not previously maintained by
21 UE") which should afford UE protection from "unreasonable" activity."
22

23 UE, in its rebuttal testimony, is now asserting a restrictive interpretation of
24 monitoring that was neither discussed nor agreed to in the EARP negotiations. This
25 restrictive interpretation centers around the Company's assertion that there was an
26 agreement between Staff, OPC and UE regarding accounting methodologies or practices
27 underlying EARP.

28 Q. Mr. Brandt discusses in his rebuttal testimony the necessity for an agreed
29 upon appropriate accounting methodology(ies) or practice(s) for calculating earnings for

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1 the successful implementation of incentive rate regulation. Was there such an agreement
2 in SBIRE?

3 A. No. Mr. Brandt discusses this matter and EARP on page 12, lines 2-4, 11,
4 15, 21; page 13, lines 1, 3, 5; page 14, lines 1, 5, 14, 23; page 15, lines 6-7, 17, 20-22;
5 and page 16, lines 1-2 in his rebuttal testimony. Mr. Baxter makes similar statements in
6 his rebuttal testimony on page 6, line 15 through page 7, line 2. There was no such
7 agreement in SBIRE and I can find no UE EARP language that indicates such an
8 agreement. Furthermore, there are no side agreements between Staff and UE regarding
9 accounting methodologies or practices. (July 19, 1995, on-the-record presentation of the
10 Stipulation And Agreement in Case No. ER-95-411 [Transcript, Vol. One, pp.49-51,
11 Case No. ER-95-411]).

12 Q. Is there any unique feature in a SBIRE type alternative regulation plan that
13 requires special consideration in the area of earnings determination and monitoring
14 different from the methodology used in a rate increase or earnings complaint case?

15 A. Yes. Southwestern Bell's alternative regulation plan was a sharing
16 scheme based on that company's earnings in a given year. Rate increase and earnings
17 complaint cases use historical periods as test years. Test years are not examined to
18 determine what are the appropriate earnings for that given period. Rate cases use test
19 years as the basis for developing an ongoing level of costs, revenues and rate base in
20 order to set rates for the future. SBIRE needed special provisions to allow the parties to
21 address the issue as to what was the company's appropriate earnings level in a specific
22 12-month period. For example, an average rate base is used in an earnings sharing plan
23 in lieu of the year-end rate base normally used in a rate increase or earnings complaint

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1 case. Parties in developing an earning sharing plan need flexibility to address the period-
2 specific earnings determination. Parties cannot rely on normal rate increase or earnings
3 complaint case practices to fulfill this need.

4 Q. UE has asserted in Mr. Knight's rebuttal testimony, page 10, lines 16-18,
5 that the Staff adjustments that are at issue in this case are a reversion to the rate increase
6 or earnings complaint case audit process which the EARP is intended to avoid. Do you
7 agree?

8 A. No. The adjustments at issue in this case relate to the question as to what
9 is the appropriate level of earnings to determine the third year of sharing credits for UE.
10 Adjustments related to the determination of the correct level of earnings related to a
11 specific year are not performed in a rate increase or earnings complaint case.

12 Q. Messrs. Brandt and McKnight state in their rebuttal testimony that the
13 EARP language is clear and unambiguous. Do you agree?

14 A. No. Mr. Brandt addresses this point on page 13, lines 13-14 of his rebuttal
15 testimony. Mr. McKnight addresses this point on page 6, lines 3-5. UE's attorney at the
16 July 19, 1995, on the record presentation of the Stipulation And Agreement in Case No.
17 ER-95-411 described the EARP document as follows:

18 This document has, as with most any document that has, in effect, been
19 written by a committee, may not read as clearly as one would like without
20 the benefit of having participated in the negotiations. [Transcript, Vol.
21 One, pp.20-21, Case No. ER-95-411].

22
23 At this proceeding the OPC attorney described the document as follows:

24
25 Like any document like this, it's meticulously precise but probably
26 completely unclear. [Transcript, Vol. One, pp.23-24, Case No.
27 ER-95-411].
28

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1 One commissioner and another attorney raised similar concerns regarding the
2 clarity of EARP. [Transcript, Vol. One, pp. 46-47, Case No. ER-95-411].

3 I would agree that SBIRE and EARP are both documents that are ambiguous and
4 unclear, especially in the monitoring area.

5 Q. Did you perform the monitoring function of the SBIRE consistent with the
6 principles that you have just described?

7 A. Yes.

8 Q. Did you encounter in the SBIRE docket, Case No. TO-90-1, the type of
9 adjustments that are at issue in this case?

10 A. Yes. For example, there is an issue in this case related to computer costs
11 related to the changes required for the conversion to the year 2000 (Y2K). In SBIRE, we
12 had to address an issue related to the unprecedented flood of 1993. I have attached as
13 Schedule 2 copies of the filed documents related to a SBIRE sharing period dispute.
14 Page 3 of this schedule lists the issues involved in this dispute. The second item listed is
15 the 1993 flood costs that I just discussed. It should be noted that while Southwestern Bell
16 did not agree with the Staff regarding these adjustments, there was never an assertion that
17 the Staff was violating the SBIRE agreement, as alleged by UE in this case.

18 Q. From your experience, do Messrs. Brandt and McKnight fully address in
19 their rebuttal testimony on pages 10-11 and 8-9, respectively, the reasons why utilities
20 opt for incentive-based plans in Missouri?

21 A. No. First, it should be remembered that although the Commission adopted
22 experimental alternative regulation plans for Southwestern Bell and UE, other companies
23 have proposed, and still other companies are presently proposing, experimental

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1 alternative regulation plans be adopted by the Commission. It is my observation that
2 utilities in Missouri generally favor incentive regulation under either of two conditions.
3 First, the incentive plan will allow the company to keep its rates at a higher level than it
4 would have been able to do so under traditional regulation. Specifically, Mr. Brandt
5 discusses in his rebuttal testimony the benefits that UE has provided to customers under
6 EARP. At the time UE was negotiating EARP, the Staff was considering filing a
7 complaint case to reduce UE's excessive earnings by an amount greater than what was
8 achieved by the Stipulation and Agreement in Case No. ER-95-411.

9 The second factor under which utilities show interest in incentive regulation is
10 when the benchmark is one that allows them a significantly greater opportunity to keep
11 earnings versus the risk that they will not be permitted to keep such earnings. Incentive
12 plans, from the regulator's perspective, should be deemed to be successful whenever the
13 utility creates a unique reduction to its cost of service that would not occur without the
14 existence of incentive regulation. Incentive regulation plans that allow companies to
15 retain savings that would occur absent incentive regulation result in consumers paying
16 higher rates than if traditional regulation would be maintained. Unfortunately, I am not
17 aware that there has been any evidence that a Missouri incentive plan has resulted in
18 lower rates than would have been the case under traditional regulation.

19 Q. Do you agree with Mr. Brandt's statement on page 5, lines 18-21 of his
20 rebuttal testimony that the Staff positions in this proceeding cheat UE's customers of the
21 promise of EARP?

22 A. No. I do not share Mr. Brandt's opinion. The Staff has requested that UE
23 place the uncontested amount of rate reductions and credits in effect or calculate interest

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1 on these amounts until this dispute is resolved. The Company's failures to implement
2 these actions or appropriate alternatives are the major causes of the delay in customers
3 receiving these rate reductions. It is UE's position that the only appropriate action that the
4 Staff can undertake to implement the provision of sharing credits and the rate reduction is
5 to agree with UE's position regarding its earnings and the terms of EARP, regardless of
6 the Staff's view of the appropriateness of the determination of UE's earnings levels and
7 the terms of EARP.

8 Q. Does this conclude your surrebuttal testimony?

9 A. Yes it does.

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE 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)

EM-96-149

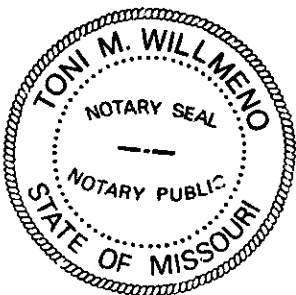
AFFIDAVIT OF ROBERT E. SCHALLENBERG

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

Robert E. Schallenberg, is of lawful age, on his oath states: that he has participated in the preparation of the foregoing Surrebuttal Testimony in question and answer form, consisting of 17 pages to be presented in the above case; that the answers in the foregoing Surrebuttal Testimony were given by him; that he has knowledge of the matters set forth in such answers; and that such matters are true and correct to the best of his knowledge and belief.

R. E. Schallenberg
Robert E. Schallenberg

Subscribed and sworn to before me this 19th day of April, 1999.



Toni M. Willmeno
Toni M. Willmeno
Notary Public, State of Missouri
County of Callaway
My Commission Expires June 24, 2000

RATE CASE PROCEEDING PARTICIPATION
ROBERT E. SCHALLENBERG

<u>COMPANY</u>	<u>CASE NO.</u>
Southwestern Bell Telephone Company	TR-79-213
Southwestern Bell Telephone Company	TR-80-256
Southwestern Bell Telephone Company	TR-81-208
Southwestern Bell Telephone Company	TR-82-199
Southwestern Bell Telephone Company	TR-83-253
Southwestern Bell Telephone Company	TR-86-84
Southwestern Bell Telephone Company	TC-89-14
Southwestern Bell Telephone Company	TO-89-56
Southwestern Bell Telephone Company	TR-90-98
Southwestern Bell Telephone Company	TC-93-224
Southwestern Bell Telephone Company	TO-82-3
Kansas City Power & Light Company	ER-77-118
Kansas City Power & Light Company	ER-78-252
Kansas City Power & Light Company	ER-80-48
Kansas City Power & Light Company	ER-81-42
Kansas City Power & Light Company	ER-82-66
Kansas City Power & Light Company	HR-82-67
Kansas City Power & Light Company	ER-83-49
Kansas City Power & Light Company	EO-85-185
Kansas City Power & Light Company	ER-85-128
Missouri Public Service Company	ER-78-29
Missouri Public Service Company	GR-78-30
Missouri Public Service Company	ER-90-101
General Telephone	TM-87-19
General Telephone	TR-86-148
General Telephone	TC-87-57

RATE CASE PROCEEDING PARTICIPATION
ROBERT E. SCHALLENBERG

General Telephone	TR-89-182
Gas Service Company	GR-78-70
Gas Service Company	GR-79-114
Union Electric Company	EC-87-114
Kansas Power & Light Company	GR-91-291
Kansas Power & Light Company	EC-91-213
Western Resources	GR-93-240
Western Resources	GM-94-40
United Telephone Company of Missouri	TR-80-235
St. Joseph Light and Power Company	EC-92-214
St. Joseph Light and Power Company	ER-93-41
Kansas Power and Light Company	EM-91-213
Laclede Gas Company	GR-94-220
Williams Natural Gas Company	RP94-365-000
Williams Natural Gas Company	RP95-136-000
Mississippi River Transmission	RP96-199-000

**CASE SUMMARY OF INVOLVEMENT
OF
ROBERT E. SCHALLENBERG**

Gas Service Company

Case No. GR-79-114

Date: June 15, 1979

Areas: Deferred Taxes as an Offset to Rate Base

Missouri Public Service Company

Case Nos. ER-78-29 and GR-78-30

Date: August 10, 1978

Areas: Fuel Expense, Electric Materials and Supplies, Electric and Gas Prepayments,
Electric and Gas Cash Working Capital, Electric Revenues

Missouri Public Service Company

Case Nos. ER-79-60 and GR-79-61

Date: April 9, 1979

Areas: Depreciation Reserve, Cash Working Capital

Southwestern Bell Telephone Company

Case No. TR-79-213

Date: October 19, 1979

Areas: Income Taxes, Deferred Taxes

Kansas City Power & Light Company

Case Nos. ER-80-48 and ER-80-204

Date: March 11, 1980

Areas: Iatan Station Excess Capacity, Interest Synchronization, Allocations

Kansas City Power & Light Company

Case No. ER-81-42

Date: March 13, 1981

Areas: Iatan (AEC Sale), Normalization vs. Flow-Through, Allocations, Allowance for
Known and Measurable Changes

Southwestern Bell Telephone Company

Case No. TR-80-256

Date: October 23, 1980

Areas: Flow-Through vs. Normalization

**CASE SUMMARY OF INVOLVEMENT
OF
ROBERT E. SCHALLENBERG**

United Telephone Company of Missouri

Case No. TR-80-235

Date: December 1980

Areas: Rate of Return

Southwestern Bell Telephone Company

Case No. TR-81-08

Date: August 6, 1981

Areas: License Contract, Flow-Through vs. Normalization

Kansas City Power & Light Company

Case Nos. ER-82-66 and HR-82-67

Date: March 26, 1982

Areas: Indexing/Attrition, Normalization vs. Flow-Through, Deferred Taxes as an Offset to Rate Base, Annualization of Amortization of Deferred Income Taxes, Cost of Money/Rate of Return, Allocations, Fuel Inventories, Iatan AFDC Associated with AEC Sale, Forecasted Coal and Natural Gas Prices, Allowance for Known and Measurable Changes

Southwestern Bell Telephone Company

Case No. TR-82-199

Date: August 27, 1982

Areas: License Contract, Capitalized Property Taxes, Normalization vs. Flow-Through, Interest Expense, Separations, Consent Decree, Capital Structure Relationship

Kansas City Power & Light Company

Case No. ER-83-49

Date: February 11, 1983

Areas: Test Year, Fuel Inventories, Other O&M Expense Adjustment, Attrition Adjustment, Fuel Expense-Forecasted Fuel Prices, Deferred Taxes Offset to Rate Base

**CASE SUMMARY OF INVOLVEMENT
OF
ROBERT E. SCHALLENBERG**

Kansas City Power & Light Company

Case Nos. EO-85-185 and ER-85-128

Date: April 11, 1985

Areas: Phase I - Electric Jurisdictional Allocations

Date: June 21, 1985

Areas: Phase III - Deferred Taxes Offset to Rate Base

Date: July 3, 1985

Areas: Phase IV - 47% vs. 41.5% Ownership, Phase-In, Test Year/True-Up, Decision to Build Wolf Creek, Non-Wolf Creek Depreciation Rates, Depreciation Reserve, Jurisdictional Steam Allocations/Grand Avenue Station

Southwestern Bell Telephone Company

Case No. TR-83-253

Date: September 23, 1983

Areas: Cost of Divestiture Relating to AT&T Communications, Test Year, True-Up, Management Efficiency and Economy

Generic Telecommunications - Straight Line Equal Life Group and Remaining Life Depreciation Methods

Case No. TO-82-3

Date: December 23, 1981

Areas: Depreciation

General Telephone Company of the Midwest

Case No. TM-87-19

Date: December 17, 1986

Areas: Merger

General Telephone Company of the Midwest

Case No. TC-87-57 (TR-86-48)

Date: December 1986

Areas: Background and Overview, GTE Service Corporation, Merger Adjustment, Adjustments to Income Statement

Southwestern Bell Telephone Company

Case No. TR-86-4

Date: 1986

No prefiled direct testimony - case settled before Staff testimony filed

**CASE SUMMARY OF INVOLVEMENT
OF
ROBERT E. SCHALLENBERG**

Union Electric Company

Case No. EC-87-114

Date: April 27, 1987

Areas: Elimination of Further Company Phase-In Increases, Write-Off of Callaway I to Company's Capital Structure.

Western Resources

Case No. GM-94-40

Date: November 1993

Areas: Jurisdictional Consequences of the Sale of Missouri Gas Properties

Kansas Power & Light Company

Case No. EM-91-213

Date: April 1991

Areas: Purchase of Kansas Gas & Electric Company

Laclede Gas Company

Case No. GR-94-220

Date: July 1994

Areas: Property Taxes, Manufactured Gas Accruals, Deregulated Cost Assignments

While in the employ of the Kansas State Corporation Commission in 1978, Mr. Schallenberg worked on a Gas Service Company rate case and rate cases of various electric cooperatives.



Missouri Public Service Commission

Commissioners

ALLAN G. MUELLER
Chairman
KENNETH McCLURE
PATRICIA D. PERKINS
DUNCAN E. KINCHELOE
HAROLD CRUMPTON

POST OFFICE BOX 360
JEFFERSON CITY, MISSOURI 65102
314 751-3234
314 751-1847 (Fax Number)
314 526-5695 (TT)

DAVID L. RAUCH
Executive Secretary
SAM GOLDAMMER
Director, Utility Operations
GORDON L. PERSINGER
Director, Policy & Planning
KENNETH J. RADEMAN
Director, Utility Services
DANIEL S. ROSS
Director, Administration
CECIL I. WRIGHT
Chief Hearing Examiner
ROBERT J. HACK
General Counsel

May 16, 1994

FILED

MAY 16 1994

MISSOURI
PUBLIC SERVICE COMMISSION

Mr. David L. Rauch
Executive Secretary
Missouri Public Service Commission
P. O. Box 360
Jefferson City, Missouri 65102

RE: Case No. ~~TO-90-1~~ Southwestern Bell Telephone Company: 1993
Credit Calculation

Dear Mr. Rauch:

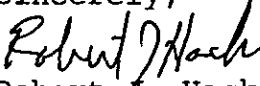
On April 15, 1994, Southwestern Bell Telephone Company submitted two earnings sharing reports which it has characterized as being "preliminary". According to the terms of the Monitoring Procedures, the Staff and the Office of the Public Counsel are required to bring to the Commission's attention by May 16, 1994, areas of disagreement with those earnings sharing reports that need to be resolved by the Commission. The Staff has identified a number of potential issues and has had preliminary discussions with both Southwestern Bell and the Office of the Public Counsel on those items. The Staff is continuing to gather the data necessary to confirm whether a disagreement exists and to quantify those items that may be in dispute. The Staff therefore requests additional time to make a filing with the Commission identifying any areas of disagreement. The two preliminary sharing reports filed by Southwestern Bell indicate that no customer credits are due. The Commission should be aware that on a preliminary basis the Staff presently believes that customer credits will be due. No later than June 15, 1994, the Staff will file a pleading which identifies any issues needing Commission resolution and a proposed procedural schedule designed to facilitate that resolution.

An original and fourteen (14) copies of this letter are being

May 16, 1994
Page 2

filed for distribution to the appropriate Commission personnel.
Thank you for your attention to this matter.

Sincerely,


Robert J. Hack
General Counsel
314-751-8705

cc: Counsel of Record
Cecil Wright

FILED

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

JUN 15 1994

MISSOURI
PUBLIC SERVICE COMMISSION

In the matter of an incentive)
plan for Southwestern Bell)
Telephone Company)

Case No. TO-90-1

IDENTIFICATION OF ISSUES AND PROPOSED PROCEDURAL SCHEDULE

Come now the Staff of the Missouri Public Service Commission (Staff) and the Office of the Public Counsel (Public Counsel) and respectfully state as follows:

1. The Staff and Public Counsel have identified the following areas of disagreement with the final 1993 earnings sharing reports filed by Southwestern Bell Telephone Company (SWBT):

- Financial Accounting Standard (FAS) 112
- 1993 Flood Costs
- Kansas City Data Center
- FAS 106
- Net Restructuring Costs
- 1993 TEAM Award
- Stock Value II/Sharing Plan II
- KC Market Area Assignment
- Deregulated Services Costs
- Sales-Salaries/Wages
- Contracted Services & Consulting Fees
- Material Overruns for Operational Projects
- Interest Component of IDC
- Income Taxes-Cost of Removal/Salvage

It is the understanding of the Staff and Public Counsel that only these items are to be considered as "issues" subject to Commission resolution for purposes of the 1993 credit calculations.

2. The Staff and Public Counsel propose the following procedural schedule to facilitate the Commission's resolution of the above:

Direct Testimony and Schedules of the Staff and Public Counsel---September 16, 1994

Rebuttal Testimony and Schedules of Southwestern Bell Telephone Company---October 14, 1994

Surrebuttal Testimony and Schedules of the Staff and Public Counsel---October 28, 1994

Hearing Memorandum---November 2, 1994

Cross-examination---November 9-11, 1994

Although the Staff and Public Counsel would prefer to resolve this matter more quickly, barring timely settlement of Case No. GR-94-220, pre-existing scheduling commitments prevent the Staff personnel assigned to this docket from adequately addressing this matter any sooner than the schedule shown above.

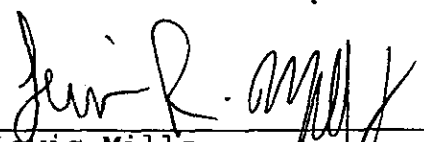
Wherefore, the Staff and Public Counsel respectfully request that the Commission set this matter for hearing in accordance with the proposed procedural schedule set forth in paragraph 2.

Respectfully submitted,



Robert J. Hack
General Counsel

Attorney for the Staff of the
Missouri Public Service
Commission
P. O. Box 360
Jefferson City, MO 65102
(314) 751-8705



Lewis Mills
Deputy Public Counsel

Attorney for the Office of
the Public Counsel
P.O. Box 7800
Jefferson City, MO 65102
(314) 751-1304

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed or hand-delivered this date to all parties of record on this 15th day of June, 1994.

Robert J. Auk

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED

JUN 23 1994

In the matter of an incentive)
plan for Southwestern Bell)
Telephone Company.)

MISSOURI
Case No. ~~18~~ PUBLIC SERVICE COMMISSION

SOUTHWESTERN BELL TELEPHONE COMPANY'S
RESPONSE TO PROPOSED PROCEDURAL SCHEDULE

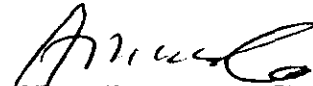
1. Southwestern Bell's only specific comment on the procedural schedule proposed by the Staff and Office of Public Counsel (OPC) is that the Commission should consider establishing November 4 instead of November 2 as the deadline for the Hearing Memorandum. Because Staff and OPC surrebuttal will not be filed until October 28 under the proposed schedule, a November 2 deadline might not provide enough time to finalize the Hearing Memorandum.

2. In the meantime, discussions regarding the issues identified by Staff and OPC could take place to determine if any or all of these issues could be resolved by agreement in advance of the proposed schedule.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE COMPANY

By


ALFRED G. RICHTER, JR.

ANN E. MEULEMAN

KATHERINE C. SWALLER

Attorneys for Southwestern Bell
Telephone Company

100 N. Tucker, Room 630

St. Louis, Missouri 63101-1976

314-247-5224

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing document were served upon all parties of record as indicated on the attached service list, by first-class postage prepaid, U.S. Mail.

Dated at St. Louis, Missouri, the 22 day of JUNE, 1994.



Alfred G. Richter, Jr.

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held at its office
in Jefferson City on the 29th
day of June, 1994.

In the matter of an incentive plan for Southwestern)
Bell Telephone Company.) Case No. TO-90-1
)

ORDER ESTABLISHING PROCEDURAL SCHEDULE

On April 15, 1994, Southwestern Bell Telephone Company (SWB) filed its earnings sharing report for the final year of the Incentive Regulation Plan, and the report indicates that no customer credits are due for 1993. On June 15, 1994, Commission Staff and the Office of Public Counsel (OPC) filed a letter stating their position on customer credits. In the letter Staff and OPC list the areas of disagreement with SWB's report and propose a procedural schedule to address these areas. Staff and OPC indicate they believe credits are due customers. SWB filed a response suggesting another date for the hearing memorandum to be filed.

The Commission has considered SWB's report and Staff's and OPC's letter and finds that a procedural schedule should be adopted so the parties can present their evidence concerning the areas of disagreement as listed in Staff's and OPC's letter. Due to scheduling conflicts, the Commission will move the hearing dates from their proposed dates to November 21, 22 and 23, 1994. The hearing memorandum date will also be moved as proposed by SWB.

IT IS THEREFORE ORDERED:

1. That the following procedural schedule be hereby adopted for this case:

Staff and OPC direct testimony	September 16, 1994
SWB rebuttal testimony	October 14, 1994
Staff and OPC surrebuttal testimony	October 28, 1994
Hearing memorandum	November 4, 1994
Hearing	November 21, 22 and 23, 1994

The hearing will commence at 10:00 a.m. and will be held in the Commission's hearing room on Floor 5A of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri. Any person with special needs as addressed by the Americans with Disabilities Act shall notify the Chief Hearing Examiner (314/751-7497) at least ten (10) days prior to the hearings.

2. That this order shall become effective on the date hereof.

BY THE COMMISSION



**David L. Rauch
Executive Secretary**

(S E A L)

Mueller, Chm., McClure and
Perkins, CC., concur.
Crumpton, C., not participating.
Kincheloe, C., absent.

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the matter of an incentive plan)
for Southwestern Bell Telephone) Case No. TO-90-1
Company.)

STIPULATION AND AGREEMENT

WHEREAS, the Staff of the Missouri Public Service Commission (Staff) and the Office of the Public Counsel (OPC) are of the opinion that Southwestern Bell Telephone Company (SWB) customers are entitled to certain one-time credits as a result of SWB's 1993 earnings levels during the extended Incentive Regulation Plan (Plan) approved by the Commission in Docket No. TO-90-1; and

WHEREAS, SWB has filed reports with the Commission taking the position no customer credits are due as a result of the Company's 1993 earnings; and

WHEREAS, the Commission has set hearings for November 21 through 23, 1994, in Docket No. TO-90-1 to determine what, if any, credits may be due customers; and

WHEREAS, Staff, OPC and SWB would like to resolve their difference in this proceeding by Agreement;

NOW THEREFORE, in consideration of the mutual covenants expressed herein, Staff, OPC and SWB agree as follows:

1. The Commission should direct SWB to issue one-time credits of \$10 million to its customers in full satisfaction of the Company's remaining sharing obligations under the Plan approved by the Commission in Docket No. TO-90-1.

FILED

AUG 31 1994

MISSOURI
PUBLIC SERVICE

Schedule 2-10

2. Such credits should be issued in the manner specified in that Plan, with the exception that the credits should issue within a reasonable time after a Commission order closing this case and approving the proposal made herein as its final resolution.

3. This Stipulation should be presented to the Commission in a prehearing which the signatories hereto will recommend be scheduled at the earliest date possible in October.

4. The agreement of the parties to proceed with the recommendations contained herein is contingent upon the resolution, prior to the time of the requested prehearing, of the issues pending in OPC's and SWB's appeals of the Commission's December 17, 1993 Order, in Case No. TC-93-224, which are currently pending before the Circuit Court of Cole County in Case No. CV192-24CC. In the event a resolution of those appeals fails to occur prior to October 3, 1994, the parties will proceed to present their positions on the remaining issues in this case to the Commission in the hearings scheduled for November 21 through 23, 1994 and this Stipulation shall be null and void.

OFFICE OF THE PUBLIC COUNSEL

STAFF OF THE PUBLIC SERVICE
COMMISSION OF THE STATE OF
MISSOURI

By Martin O'Byrne
Date 8/31/94

By Robert J. Hack
Date 8/31/94

SOUTHWESTERN BELL TELEPHONE
COMPANY

By M... ..
Date 8-31-94

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record in Case No. TO-90-1 as shown on the attached service list this 31st day of August, 1994.

Robert J. Hack

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held at its office
in Jefferson City on the 19th
day of October, 1994.

In the matter of an incentive plan for Southwestern)
Bell Telephone Company.) Case No. TO-90-1
)

ORDER APPROVING STIPULATION AND AGREEMENT

On August 31, 1994, Commission Staff, the Office of Public Counsel and Southwestern Bell Telephone Company (SWB) filed a Stipulation And Agreement (Stipulation) in this case which reflected an agreement among these three parties that SWB customers are entitled to certain one-time credits as a result of SWB's 1993 earnings levels. These credits are due pursuant to the terms of the extension for one year of the Incentive Regulation Plan approved by the Commission. The agreement reflects that customers will receive one-time credits totaling \$10 million as a settlement of all issues involving the 1993 earnings of SWB. The agreement was made contingent on the resolution of the appeals of Case No. TC-93-224. On October 5, 1994, the three parties filed a motion requesting the Commission issue an order by October 14, 1994, approving the Stipulation since no other party opposed the Stipulation.

The Commission has reviewed the Stipulation and the original positions of the parties and finds that the Stipulation is reasonable and should be approved. No party opposed the Stipulation. These one-time credits to customers reflect the earnings of SWB during 1993 as agreed to by the three signatory parties. 1993 is the last year of the plan and the issuance of these credits will conclude the experiment in alternative regulation.

IT IS THEREFORE ORDERED:

1. That the Stipulation And Agreement filed by Commission Staff, Office of Public Counsel and Southwestern Bell Telephone Company is hereby approved.
2. That Southwestern Bell Telephone Company shall issue one-time credits to customers of Ten Million Dollars (\$10,000,000) in accordance with the terms of the Incentive Regulation Plan and Stipulation And Agreement approved by the Commission in ordered paragraph 1.
3. That this docket will be closed on the effective date of this order.
4. That this order shall become effective on the 25th day of October, 1994.

BY THE COMMISSION



David L. Rauch
Executive Secretary

(S E A L)

Mueller, Chm., McClure, Perkins,
and Kincheloe, CC., concur.
Crumpton, C., not participating.



Martha S. Hogerty
Public Counsel

State of Missouri

Mel Carnahan
Governor

Office of the Public Counsel
Harry S Truman Building
Suite - 250
P.O. Box 7800
Jefferson City, Missouri 65102

Telephone: 573-751-4857
Facsimile: 573-751-5562
Relay Missouri
1-800-735-2966 TDD
1-800-735-2466 Voice

April 19, 1999

FILED

APR 19 1999

Missouri Public
Service Commission

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

**Re: Union Electric for Order Authorizing Merger Transactions
With Central Illinois Public Service
Case No.: EM-96-149**

Dear Mr. Roberts:

Enclosed for filing in the above-referenced case is the original and 14 copies of the **Surrebuttal Testimony of Ted Robertson**. Please "file" stamp the extra enclosed copy and return it to this office for our files. I have also on this date mailed, faxed, and/or hand-delivered the appropriate number of copies to all counsel of record.

Thank you for your attention to this matter.

Sincerely,

John B. Coffman
Deputy Public Counsel

JBC:rjr

cc: Counsel of Record

Enclosure