

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

In the Matter of the Application of Union)
Electric Company, doing business as)
AmerenUE, for an Order Authorizing the)
Sale, Transfer and Assignment of Certain)
Assets, Real Estate, Leased Property,)
Easements and Contractual Agreements to)
Central Illinois Public Service Company,)
doing business as AmerenCIPS, and, in)
connection therewith, Certain Other)
Related Transactions.)

Case No. EO-2004-0108

**STAFF’S LIST OF ISSUES, STATEMENT OF POSITIONS, ORDER OF WITNESSES,
ORDER OF CROSS-EXAMINATION AND ORDER OF OPENING STATEMENTS**

Comes now the Staff of the Missouri Public Service Commission (Staff) and states that the Staff, the Office of Public Counsel (OPC) and Union Electric Company, d/b/a AmerenUE each developed a separate list of issues. Although the Staff and OPC reached agreement to submit their lists of issues using a common format, AmerenUE did not think that the format proposed by the Staff and OPC was appropriate. As a consequence, the Staff and OPC are submitting their lists of issues and position statements in a similar format, but in separate filing documents. AmerenUE will be submitting its list of issues and statement of positions separately.

AmerenUE, the Staff and OPC provided each other, and all other parties, with electronic versions of their lists of issues. The Staff has attempted to provide herein a composite list of issues and statements of positions which shows AmerenUE’s list of issues, as current as the Staff had received AmerenUE’s list of issues from AmerenUE, but AmerenUE’s statement of positions are not shown hereinbelow. The parties did not exchange statements of positions. The list of issues filed by AmerenUE may not necessarily be identical to the AmerenUE issues shown hereinbelow. AmerenUE was free to alter its list of issues and the Staff does not intend in any

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manner to indicate otherwise. In setting out herein an Ameren UE list of issues, the Staff wants to make it very clear that AmerenUE has not adopted the Staff's and OPC's presentation of the list of issues and statements of positions. The following represents the Staff's and OPC's attempt to present a common organization of the issues.

I. General

A. "Not Detrimental To The Public" Standard for this Case

AmerenUE - To approve a transfer of assets under Section 393.190, the Commission must determine the proposed transfer is not detrimental to the public interest. AmerenUE bears the burden of proof to show that the transfer meets the "not detrimental to the public interest" standard. Has AmerenUE presented evidence in this case sufficient to satisfy the not detrimental to the public interest standard?

Staff Position: It is Staff's position that AmerenUE has not presented evidence in this case sufficient to satisfy the not detrimental to the public standard. The Staff issues set out in this document indicate the basis of Staff's position that AmerenUE's case fails to satisfy the not detrimental to the public standard relative to AmerenUE's request to transfer of assets under Section 393.190.1. AmerenUE's application in this case contains requests in addition to a request to approve a transfer assets under Section 393.190.1. AmerenUE requests that the Commission authorize, approve, grant, and confirm thirteen (13) separate matters. These requests appear on pages 10 through 12 as items (a) through (m) of its "Wherefore" clause in its Application. Staff does not agree that the "not detrimental to the public" standard applies to each of AmerenUE's requests or that the items requested necessarily relate to Section 393.190.1.

AmerenUE - Section 393.190 does not require a showing of benefit on account of the transfer. If the public utility makes a prima facie showing of no detriment, opponents of the transfer are required to go forward with compelling evidence of a direct and present detriment that is likely to occur in order to rebut the utility's prima facie case. Have Staff and Public Counsel produced such compelling evidence?

Staff Position: Regardless of the fact that the Staff contends that the legal standard is set out in *State ex rel. City of St. Louis v. Public Serv. Comm'n*, 73 S.W.2d 393, 399-400 (Mo. banc 1934) and *State ex rel. AG Processing, Inc. v. Public Service Commission*, 120 S.W.3d 732 (Mo. banc 2003), it is Staff's position that Staff and Public Counsel have produced compelling evidence that demonstrates that AmerenUE has failed to evaluate the consequences of several significant aspects of its proposed Metro East transfer on its operations before AmerenUE agreed to transfer a portion of its business to an affiliate company, AmerenCIPS. Significant aspects of the proposed transfer that AmerenUE did not properly evaluate the effect on its operations are specified in the Staff and OPC/Staff issues listed in this document

AmerenUE - Section 393.190's purpose is to ensure the continuation of adequate service to the public served by the utility. AmerenUE contends that there is nothing about the proposed transfer that has any negative effect on its ability to provide adequate service. Will there be a negative effect on AmerenUE's ability to provide adequate service that causes the transfer to fail the not detrimental standard?

Staff Position: It is Staff's position that AmerenUE has failed to enter into agreements with its affiliates, such as AmerenCIPS, that would provide adequate assurance that service quality will not be negatively affected by the proposed transfer. The terms of the Asset Transfer Agreement do not contain any provisions assuring that the proposed transfer will maintain adequate service or not have a negative effect on AmerenUE's ability to provide adequate service.

AmerenUE - Staff/OPC allege that AmerenUE costs or liabilities due to the transfer may increase future rates. AmerenUE is in a rate moratorium through June 30, 2006, AmerenUE's costs and revenues unrelated to the transfer are not at issue, and an increase in rates is not a per se detriment. Is there compelling evidence of a likely direct and present detriment due to these costs and liabilities that causes the transfer to fail the not detrimental standard?

Staff Position: It is Staff's position that there is compelling evidence of a likely direct and present detriment to the public due to impacts of the transfer on AmerenUE's costs and liabilities that will increase the costs of AmerenUE to provide service to its Missouri consumers. These conditions will cause AmerenUE to fail to meet the not detrimental to the public standard. The specific issues that address detriments are listed as the issues contained in this document. Rate moratoriums are a condition of the Stipulation And Agreement in Case No. EC-2002-1 and the Stipulation And Agreement in Case No. GR-2003-0517, which were accepted by the Commission. The Stipulation And Agreement in Case No. EC-2002-1 also requires AmerenUE to provide a cost of service study based on its results for the year ending June 30, 2005. The cost impacts of the transfer will be included in that study. Rate moratoriums are not indicia of no detriment to the public.

Staff/OPC - AmerenUE must present evidence to the Commission to show that its proposed transaction is not detrimental to the public. Cost increases and reliability issues arising from the proposed transaction constitute detriments to the public. Has AmerenUE presented adequate evidence in its evidentiary filings and the hearings for the Commission to find that the proposed transaction will not cause cost increases and reliability issues to AmerenUE's Missouri electric and/or natural gas customers?

Staff Position: It is Staff's position that AmerenUE has not presented evidence in this case sufficient to satisfy the not detrimental to the public standard. The Staff issues set out in this document indicate the basis of Staff's position that AmerenUE's evidence fails to satisfy the not detrimental to the public standard relative to AmerenUE's request to transfer assets under Section 393.190.1. AmerenUE's application in this case contains requests in addition to a request to approve a transfer of assets under Section 393.190.1. AmerenUE requests that the Commission authorize, approve, grant, and/or confirm thirteen (13) matters. These requests appear on pages 10 through 12 as items (a) through (m) of its "Wherefore" clause in its Application. Staff does not agree that the "not detrimental to the public" standard applies to each

of AmerenUE's requests or that the items requested necessarily relate to Section 393.190.1. It is Staff's position that AmerenUE has failed to provide with its affiliates, such as AmerenCIPS, adequate assurance that service quality will not be negatively affected by the proposed transfer. The Asset Transfer Agreement does not contain any provisions assuring that the proposed transfer will maintain adequate service or not have a negative effect on AmerenUE's ability to provide adequate service.

Staff/OPC - The Missouri Supreme Court decision in *State ex rel. AG Processing, Inc. v. Public Service Commission*, 120 S.W.3d 732 (Mo. banc 2003) requires that the Commission, when determining whether to authorize transactions pursuant to Section 393.190.1 RSMo. 2000, consider and decide all necessary and essential issues, such as was the transaction at arm's-length and are the costs reasonable, and the fact that a relevant and critical issue could be addressed in a subsequent ratemaking case does not relieve the Commission of the duty of deciding the issue. In part, due to the rate moratorium resulting from the settlement of the Staff's excess earning/revenues complaint case against AmerenUE, AmerenUE contends that the matters raised by the Staff regarding the rate effects of the proposed transfer are not within the bounds of the not detrimental to the public standard. Has AmerenUE failed to meet its burden of proof by not addressing, or not adequately addressing, relevant and critical issues that have ratemaking consequences, but may not have immediate rate consequences because of the rate moratorium?

Staff Position: It is Staff's position that the Asset Transfer Agreement is not an arm's-length transaction. AmerenUE did not have separate individuals defining its interests and negotiating for its benefit separate from the interests of Ameren Corporation, AmerenCIPS, or Ameren Services Company. Staff and OPC have been required to assume a portion of this responsibility through their evaluation of the proposed Metro East transfer. The issues set out in this document focus on specific aspects of the proposed transaction that relate to cost, operational, and integration concerns.

B. Scope of the Application

AmerenUE - AmerenUE requests authority to transfer the assets listed on a fixed asset listing showing the assets as of December 31, 2003, including changes due to normal additions or retirements from December 31, 2003 through the closing date. Staff objects to giving permission to transfer anything not on the list. Is the not detrimental standard met by allowing AmerenUE to transfer assets added or deleted due to normal additions or retirement?

Staff Position: It is Staff's position that a not detrimental to the public standard cannot be applied to unknown aspects of a proposed transaction. AmerenUE has not provided any formal, well defined parameters regarding the meaning of the phrase "normal additions or retirements." Staff has expressed operational and cost concerns regarding the proposed treatment of certain AmerenUE transmission facilities as part of the proposed Metro East transfer. AmerenUE has provided no information regarding the impact of "normal additions or retirements" on transmission plant to be transferred.

Staff/OPC- AmerenUE in its Application requests authority to transfer assets that AmerenUE has not identified in its application, direct testimony or surrebuttal testimony. It is not possible to determine if an asset transfer is detrimental to the public when the asset has not been identified. Should the Commission approve the transfer of unspecified assets as requested in AmerenUE's application?

Staff Position: It is Staff's position that a not detrimental to the public standard cannot be applied to unknown aspects of a proposed transaction. AmerenUE has not provided any formal, well defined parameters regarding the meaning of the phrase "normal additions or retirements." Staff has expressed operational and cost concerns regarding the proposed treatment of certain AmerenUE transmission facilities as part of the proposed Metro East transfer. AmerenUE has provided no information regarding the impact of "normal additions or retirements" on transmission plant to be transferred.

C. Affiliate Transaction Rules

AmerenUE - The Commission has affiliate transaction rules. Staff contends that the proposed transfer is a transaction between AmerenUE and an affiliated company that is subject to the affiliate transaction rules, while AmerenUE contends that the transaction is not subject to the rules. Is the proposed Metro East transfer subject to the Commission's affiliate transaction rules and, if so, should AmerenUE be granted a waiver or variance from compliance with the affiliate transaction rules?

Staff Position: It is the Staff's position that the proposed Metro East transfer is subject to the Commission's affiliate transaction rules, 4 CSR 240-20.015. It is the Staff's position that AmerenUE has not submitted sufficient evidence to show that a variance from the rule for the proposed Metro East transfer is in the best interests of its Missouri regulated customers.

AmerenUE - Staff expresses concerns about the transfer price for the assets to be paid by AmerenCIPS to AmerenUE. The electric and gas distribution assets in Illinois to be transferred by AmerenUE have never been included in AmerenUE's Missouri cost of service. Is there sufficient compelling evidence of a likely direct and present detriment to Missouri ratepayers due to the transfer price sufficient to render the transfer detrimental to the public interest?

Staff Position: It is Staff's analysis that the Asset Transfer Agreement is structured so that all common liabilities and costs of AmerenUE for Missouri and Illinois operations stay with AmerenUE after the Metro East transfer occurs. These common liabilities and costs are either included through the allocation process in AmerenUE's Illinois retail cost of service or related to AmerenUE's Illinois retail operations. The current transfer price of the proposed Metro East transfer does not include any compensation to Missouri ratepayers for the recovery from them of not just the Missouri portion of the previously common liabilities but also the Illinois portion of the common liabilities. Therefore, any additional monies that AmerenUE receives in excess of the Missouri portion of the costs of the assets transferred would reduce or eliminate the detriment that would currently exist at the presently proposed transfer price.

Staff/OPC - The Commission has affiliate transaction rules regarding transactions between affiliates. The Metro East transfer is a transaction between AmerenUE and an affiliated company. Is the proposed Metro East transfer, including the proposed change to the JDA contained in Mr. Voytas' surrebuttal testimony, consistent with the Commission's affiliate transaction rules, or, in the alternative, should the Metro East transfer be granted a waiver from compliance with the Commission's affiliate transaction rules?

Staff Position: It is the Staff's position that the proposed Metro East transfer is subject to the Commission's affiliate transaction rules, 4 CSR 240-20.015. It is the Staff's position that AmerenUE has not submitted sufficient evidence to show that a variance from the rule for the proposed Metro East transfer is in the best interests of its Missouri regulated customers.

II. Specific Purported Detriments Based on AmerenUE's Economic Study

A. Issues Addressed in AmerenUE Study Filed in Direct Testimony

1. Margin On Sales Of Excess Capacity And Energy

OPC - Ameren's witness, Mr. Voytas, determined the revenue requirements of a no Metro East transfer scenario and a Metro East transfer scenario in his analysis of the economics of the proposed transaction. Did those scenarios include appropriate assumptions about the total margin on sales of any excess capacity and energy that would be enabled by the change in capacity balances under each scenario? If the assumptions for one or both scenarios were inappropriate, did UE fail to meet its burden of proving that the transfer is not detrimental to the public interest?

Staff Position: Staff does not have a position on this issue at this time.

2. Cost Of New Gas Fired Generation Capacity

OPC - AmerenUE's witness, Mr. Voytas, determined the revenue requirements of a no Metro East transfer scenario in his analysis of the economics of the proposed transaction. Was the revenue requirement associated with the no Metro East transfer scenario significantly overstated because Mr. Voytas assumed that the new gas fired generation capacity that AmerenUE would acquire would cost \$471/kW? If so, did AmerenUE fail to meet its burden of proving that the transfer is not detrimental to the public interest?

Staff Position: Staff does not have a position on this issue at this time.

3. Cost Of Complying With Environmental Regulations

OPC - AmerenUE's witness, Mr. Voytas, determined the revenue requirements of a Metro East transfer scenario in his analysis of the economics of the proposed transaction. Was the revenue requirement associated with the Metro East transfer scenario significantly understated because Mr. Voytas assumed that the cost of complying with environmental regulations (SO₂, mercury,

CO2, etc.) would remain unchanged over the 25-year time horizon of the analysis? If so, did AmerenUE fail to meet its burden of proving that the transfer is not detrimental to the public interest?

Staff Position: It is the position of the Staff that Mr. Voytas's study did not examine the economic impacts of the proposed Metro East transfer in a study format that allowed 1) analysis of the transfer impacts under the conditions that AmerenUE expects to occur during the relevant period or 2) identification of the key assumptions that must occur to make the transfer the least cost option for Missouri consumers.

4. Revenues From Off-System Sales Of Energy From Combustion Turbines

Staff - AmerenUE's witness, Mr. Voytas, determined the revenue requirements of a no Metro East transfer scenario in his analysis of the economics of the proposed transaction. This scenario includes an assumption regarding the amount of revenues AmerenUE will receive from the generation that it would build without the proposed Metro East transfer. Is this assumption utilized by Mr. Voytas appropriate?

Staff Position: It is Staff's position that AmerenUE's study result that the Metro East transfer is the least cost option for Missouri consumers is based on the validity of the level of off-system sales that would be sold from the combustion turbines that would be built if the transfer were not implemented. It is Staff's position that this key assumption is not adequately supported by AmerenUE and is utilized in the study at a level to support the transfer request. Other levels of this key assumption could be used that would change the study result that transfer is the least cost option for Missouri consumers.

5. Accounting Based Approach

Staff - AmerenUE's witness, Mr. Voytas, used an accounting based approach to conduct his analysis of the economic impacts of the proposed Metro East transfer. This approach does not use forecasted budget and load growth information. Is the accounting based approach a reasonable basis for evaluating the economic impacts of the Metro East transfer on AmerenUE's Missouri electric and/or natural gas customers?

Staff Position: It is the position of the Staff that Mr. Voytas's study did not examine the economic impacts of the proposed Metro East transfer in a study format that allowed 1) analysis of the transfer impacts under the conditions that AmerenUE expects to occur during the relevant period or 2) identification of the key assumptions that must occur to make the transfer the least cost option for Missouri consumers. These study deficiencies do not allow one to draw a conclusion that the proposed transfer is the least cost capacity addition option for Missouri consumers.

6. AmerenUE's Need For Combustion Turbine Capacity

Staff - ** _____

transaction, AmerenUE would have insisted on an agreement that would have allowed AmerenUE to retain its off-system sales or receive comparable compensation.

Staff - AmerenUE direct testimony filed by Mr. Voytas, shows the economic benefit to Missouri's electric customers from the proposed Metro East transfer. Mr. Voytas' analysis was revised in his surrebuttal testimony to reflect a change in the JDA that increases the economic benefit of the proposed Metro East transfer. Is the impact of the proposed JDA change which is part of the economic analysis in Mr. Voytas' surrebuttal testimony a proper component to include in the analysis of the economic consequences of the Metro East transfer on AmerenUE's Missouri electric customers?

Staff Position: It is Staff's position that economic benefits of changes to the JDA is independent from the proposed Metro East transfer. The current JDA is financially detrimental to AmerenUE. Modifications to the JDA to reduce or eliminate its detrimental aspects should occur independent of the proposed Metro East transfer. The economic benefits of JDA modifications to reduce existing detriments to AmerenUE combined with the economic impacts of the proposed Metro East transfer create a favorable, but misleading, view of the economics of the proposed Metro East transfer.

2. Callaway Decommissioning Fund

Staff - AmerenUE's witness, Mr. Voytas, did not include the impacts of the Callaway Decommissioning Fund in his analysis of the economic impact of the proposed Metro East transfer. The economic impacts of the proposed Metro East transfer on the Callaway Decommissioning Fund are addressed in the testimony of Ameren witness Kevin L. Redhage. Does consideration of the economic impacts of the Metro East transfer on the Callaway Decommissioning Fund change the results of Mr. Voytas' analysis?

Staff Position: It is the Staff's position that the proposed Metro East transfer will assign to Missouri the Illinois asset and liability portions of the Callaway Decommissioning Fund. The liability portion exceeds the assets that are being transferred by an amount that exceeds the benefits shown in Mr. Voytas' study. AmerenUE is also proposing to discontinue funding and depositing in the Callaway Decommissioning Fund the amount being collected from Illinois customers, thereby shifting these costs mainly to Missouri consumers.

AmerenUE - AmerenUE asks approval to transfer the Illinois portion of nuclear decommissioning liability to Missouri, and asks permission to fund the decommissioning trust fund with AmerenUE's existing Missouri contribution (\$6,214,184) only. Staff contends that AmerenUE should be required to continue to fund the \$272,554 formerly funded by Illinois customers. Is there compelling evidence of a likely direct and present detriment if AmerenUE is not required to continue to fund the \$272,554 formerly attributed to its Illinois service territory?

Staff Position: It is the Staff's position that the proposed Metro East transfer will assign to Missouri the Illinois asset and liability portions of the Callaway Decommissioning Fund. The liability portion exceeds the assets that are being transferred by an amount that exceeds the benefits shown in Mr. Voytas' study. AmerenUE is also proposing to discontinue funding and

depositing in the Callaway Decommissioning Fund the amount being collected from Illinois customers, thereby shifting that costs mainly to Missouri consumers.

Staff - AmerenUE is receiving \$272,554 in rates from its Illinois electric customers to fund these customers' portion of the Callaway nuclear unit's decommissioning liability. AmerenUE will cease adding this amount annually to the Callaway Decommissioning Fund if the proposed Metro East transfer is approved because AmerenUE will not have Metro East customers from whom it will be collecting these funds. Is it detrimental to the public, i.e., AmerenUE's Missouri electric customers, for AmerenCIPS to collect monies for nuclear decommissioning and not deposit these funds in the AmerenUE decommissioning fund while AmerenUE transfers to its Missouri electric customers the liability for Callaway decommissioning costs?

Staff Position: It is the Staff's position that the proposed Metro East transfer will assign to Missouri the Illinois asset and liability portions of the Callaway Decommissioning Fund. The liability portion exceeds the assets that are being transferred by an amount that exceeds the benefits shown in Mr. Voytas' study. Ameren is also proposing to discontinue funding and depositing in the Callaway Decommissioning Fund the amount being collected from Illinois customers, thereby shifting that costs mainly to Missouri consumers.

3. Ameren Services Company Support Services

Staff - Ameren Services Company (AMS) provides support services to its affiliate, AmerenUE. The surrebuttal testimony of Mr. Weiss provides AmerenUE's analysis of the economic impact of these costs on the Metro East transfer. Is Mr. Weiss's analysis adequate to find that the costs of the AMS support services will not negatively impact the results of Mr. Voytas' study of the economic impacts of the Metro East Transfer on Missouri electric customers or Missouri natural gas customers?

Staff Position: It is the position of the Staff that AmerenUE's current analysis of the economic impact of the proposed Metro East transfer on the AMS costs charged to AmerenUE is not sufficient to support a finding that the proposed Metro East transfer will not be detrimental to the public. The inadequate level of support for the analysis performed by AmerenUE and the lack of provision for formal agreements to ensure no detriment in this area, support Staff's position that AmerenUE's case is not sufficient to satisfy the not detrimental to the public standard.

4. Transfer of Liabilities

Staff - AmerenUE will transfer liabilities to AmerenCIPS as a result of the Metro East transfer. These liabilities are addressed in the surrebuttal testimony of Mr. Getz. Is AmerenUE proposing to transfer an adequate level of liabilities to AmerenCIPS so that the liability transfer will not have a negative impact on the results of Mr. Voytas' study of the economic impact of the Metro East transfer on Missouri electric and/or natural gas customers?

Staff Position: It is the position of the Staff that the Asset Transfer Agreement is structured so that all common liabilities and costs of AmerenUE for Missouri and Illinois operations stay with AmerenUE after the proposed Metro East transfer occurs. These common liabilities and costs

are either included through the allocation process in AmerenUE's Illinois retail cost of service or related to AmerenUE's Illinois retail operations. The current transfer price does not include recognition that all recovery of common liabilities, both Missouri and Illinois common liabilities, will occur from Missouri customers. The exact amount of common liabilities that was assigned to the transfer operations has not been quantified by AmerenUE to be considered in the economic impact of the transfer on AmerenUE's Missouri customers.

5. Study Of Economic Impact On Natural Gas Customers Of Transfer

Staff - AmerenUE did not perform a study of the economic impacts of the Metro East transfer on its Missouri natural gas customers similar to the study performed by Mr. Voytas for AmerenUE's Missouri electric customers. AmerenUE filed the surrebuttal testimony of Mr. Massmann to address natural gas issues raised by the proposed Metro East transfer. Is Mr. Massmann's surrebuttal testimony adequate for the Commission to find that the Metro East transfer will not have a detrimental economic impact on AmerenUE's Missouri natural gas and/or electric customers, i.e., not be detrimental to the public?

Staff Position: It is the position of the Staff that AmerenUE has not provided sufficient evidence that the transfer is not detrimental to the public by virtue of the fact that AmerenUE failed to study the economic impacts of the transfer on its Missouri gas operations.

6. Other Known Existing Resource Options

OPC - AmerenUE's witness, Mr. Voytas, determined the revenue requirements of a no Metro East transfer scenario in his analysis of the economics of the proposed transaction. Is there a substantial possibility that the revenue requirement associated with the no Metro East transfer scenario is overstated because this scenario did not consider other known existing resource options that may have resulted in lower revenue requirements? If so, did AmerenUE fail to meet its burden of proving that the transfer is not detrimental to the public interest?

Staff Position: Staff does not have a position on this issue at this time.

7. RFP Regarding Other Resource Options

OPC - AmerenUE's witness, Mr. Voytas, determined the revenue requirements of a no Metro East transfer scenario in his analysis of the economics of the proposed transaction. Is there a substantial possibility that the revenue requirement associated with the no Metro East transfer scenario is overstated because AmerenUE did not issue a new RFP to discover other resource options that may have resulted in lower revenue requirements? If so, did AmerenUE fail to meet its burden of proving that the transfer is not detrimental to the public interest?

Staff Position: Staff does not have a position on this issue at this time.

III. Purported Detriments Excluded from AmerenUE's Economic Study that AmerenUE Contends Should Not Be Included or Were Not Addressed in AmerenUE's Surrebuttal.

A. Transmission Plant

Staff – AmerenUE’s witness, Mr. Voytas, did not include the impacts of the transfer of transmission plant in his analysis of the economics of the Metro East transfer. The cost-of-service impacts of the transfer of transmission plant were not addressed in the surrebuttal testimony of AmerenUE witnesses. Given this lack of evidence on the cost-of-service impacts of the transfer of transmission plant in the proposed Metro East Transfer, is there sufficient information to make a determination on the overall economics of the proposed Metro East transfer?

Staff Position: It is the position of the Staff that a study of the economics of the proposed transfer must examine more aspects of AmerenUE’s operations than only the generation function in order for the study to be sufficient to support a Commission finding that the proposed transfer is not detrimental to the public. AmerenUE did not study the economic impacts of the proposed transfer on its transmission function. Transmission is a significant function of AmerenUE’s electric operations and would need to be examined before the Commission could make a finding that the proposed Metro East transfer is not detrimental to the public.

B. Transmission Service and Costs

AmerenUE - Staff (and OPC) recommend any approval be conditioned on Ameren Corporation’s agreement to hold AmerenUE harmless from any detrimental transmission service or cost issues caused by the transfer. AmerenUE contends that the transfer has no effect on transmission service or costs. Has the not detrimental standard been met without requiring the hold harmless conditions recommended by Staff and OPC without such a hold harmless condition?

Staff Position: It is the position of the Staff that a study of the economics of the proposed Metro East transfer must examine more aspects of AmerenUE’s operations than only the generation function in order for the study to be sufficient to support a Commission finding that the proposed transfer is not detrimental to the public. AmerenUE did not study the economic or operational impacts of the proposed transfer on its transmission function prior to entering into the Asset Transfer Agreement. Transmission is a significant function of AmerenUE’s electric operations and would need to be examined before the Commission can make a finding that the proposed Metro East transfer is not detrimental to the public and there is sufficient evidence to support such a finding. Staff has proposed the hold harmless condition as an option to address the failure of AmerenUE to adequately address detriments to its transmission function in the Asset Transfer Agreement.

OPC/Staff - In his surrebuttal testimony, AmerenUE witness Mr. Edward C. Pfeiffer addresses the Staff’s proposed hold harmless condition with respect to transmission service and transmission charges. In his rebuttal testimony, OPC witness Mr. Ryan Kind also proposed a hold harmless condition. Is a hold harmless condition still needed to ensure no future detriment to remaining AmerenUE customers from the proposed Metro East transfer? If so, did

AmerenUE fail to meet its burden of proving that the transfer is not detrimental to the public interest?

Staff Position: It is the position of the Staff that a study of the economics of the proposed Metro East transfer must examine more aspects of AmerenUE’s operations than only the generation function in order for the study to be sufficient to support a Commission finding that the proposed transfer is not detrimental to the public. AmerenUE did not study the economic or operational impacts of the proposed transfer on its transmission function prior to entering into the Asset Transfer Agreement. Transmission is a significant function of AmerenUE’s electric operations and would need to be examined before the Commission can make a finding that the proposed Metro East transfer is not detrimental to the public and there is sufficient evidence to support such a finding. Staff has proposed the hold harmless condition as an option to address the failure of AmerenUE to adequately address detriments to its transmission function in the Asset Transfer Agreement.

OPC - AmerenUE already has generation facilities in Illinois and plans to acquire additional generation facilities in Illinois (the Pinckneyville and Kinmundy peaking plants). AmerenUE proposes to transfer ownership of all of its transmission facilities in Illinois to AmerenCIPS, except for the transmission towers along the east side of the Mississippi River, as part of the proposed transfer. If the Commission approves this application, should its approval be conditioned on AmerenUE’s agreement to hold its Missouri ratepayers harmless from any adverse rate or reliability impacts that result from the Pinckneyville and Venice generating facilities no longer being directly connected to Missouri via transmission assets that are owned and operated by AmerenUE?

Staff Position: It is the position of the Staff that a study of the economics of the proposed Metro East transfer must examine more aspects of AmerenUE’s operations than only the generation function in order for the study to be sufficient to support a Commission finding that the proposed transfer is not detrimental to the public. AmerenUE did not study the economic or operational impacts of the proposed transfer on its transmission function prior to entering into the Asset Transfer Agreement. Transmission is a significant function of AmerenUE’s electric operations and would need to be examined before the Commission can make a finding that the proposed Metro East transfer is not detrimental to the public and there is sufficient evidence to support such a finding. Staff has proposed the hold harmless condition as an option to address the failure of AmerenUE to adequately address detriments to its transmission function in the Asset Transfer Agreement.

C. AmerenUE’s Contract with EEI

OPC - ** _____

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Staff – ** _____

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Staff Position: ** _____

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D. AmerenUE’s SO2 Allowance Sales

OPC/Staff - The Commission has only granted AmerenUE authority to sell up to one-half of its Phase I SO2 emission allowances in Case No. EO-98-401. There are concerns that AmerenUE may have sold SO2 allowances outside of the authority granted by the Commission in Case No. EO-98-401. Does the potential liability that could be created by AmerenUE selling SO2 allowances outside Commission authority create a factor that could change the economic analysis of the proposed transfer?

Staff Position: It is Staff’s position that the Company’s SO2 allowance activity has increased the risk that AmerenUE will have increased environmental costs in the future. The AmerenUE study format (see issue II. 7) is not designed to detect the economic impacts of the proposed Metro East transfer on Missouri customers relative to the risk that AmerenUE will have increased environmental costs due to its SO2 allowance activity. The failure to examine this area and its effect on the economic impact of the proposed Metro East transfer on Missouri customers is supports Staff’s position that AmerenUE has not provided sufficient evidence to support a finding that the proposed transfer is not detrimental to the public.

Witnesses:

AmerenUE Witnesses (AmerenUE will provide its own order of witnesses – the list that follows is merely arranged by last names in alphabetical order):

Michael J. Getz (Surrebuttal)

Allocation of Liabilities, Asset Listing

James J. Massman (Surrebuttal) – Wednesday, March 24

Natural Gas Operations

James C. Moore, II (Surrebuttal) – Monday, March 22

SO₂ Allowances

Craig D. Nelson (Direct and Surrebuttal)

Least Cost Analysis, Assets Transferred, Joint Dispatch Agreement, Affiliate Transactions, Transmission

Edward C. Pfeiffer (Surrebuttal)

Transmission

Kevin I. Redhage (Direct and Surrebuttal)

Decommissioning Trust Fund

Richard A. Voytas (Direct and Surrebuttal)

Least Cost Resource Analysis

Matthew T. Wallace (Surrebuttal)

Combustion Turbine Generators

Gary C. Weiss (Surrebuttal)

AMS Costs, EEI Joppa Contract

Order of Staff Witnesses:

Michael S. Proctor (Rebuttal and Cross-Surrebuttal))

Least Cost Resource Analysis, Resource Needs, Joint Dispatch Agreement, Transmission Service

David M. Sommerer (Rebuttal)

Natural Gas Operations

Ronald L. Bible (Rebuttal) – Wednesday, March 24

Decommissioning Trust Fund

Richard J. Campbell (Cross-Surrebuttal)

SO₂ Allowances

Alan J. Bax (Rebuttal)

Transmission, Distribution and Generation Assets

Janis E. Fischer (Rebuttal)

Affiliated Transactions, General Liabilities, Merger Costs

Greg R. Meyer (Rebuttal)

Decommissioning Trust Fund, Assets, General Liabilities

Public Counsel Witness:

Ryan Kind (Rebuttal)

Least Cost Resource Analysis, EEI Joppa Contract, Resource Needs, Transmission Service, SO₂ Allowances, Joint Dispatch Agreement

Missouri Industrial Energy Consumers Witness:
Maurice Brubaker (Cross-Surrebuttal)

Order Of Cross-Examination By Parties:

For Ameren witnesses: cross will be by KCPL, MEG, MIEC, Staff and Public Counsel.

For Staff witnesses, excluding Proctor cross-surrebuttal: cross will be by MEG, MIEC, Public Counsel, KCPL and Ameren.

For Staff witness Proctor cross-surrebuttal: KCPL, Ameren, MEG, MIEC and Public Counsel.

For Public Counsel witness Kind: MEG, MIEC, Staff, KCPL and Ameren.

For MIEC witness Brubaker: MEG, Staff, Public Counsel, KCPL and Ameren

Suggested Order Of Opening Statements:

AmerenUE

Staff

OPC

MIEC

MEG

KCPL

Respectfully submitted,

DANA K. JOYCE
General Counsel

/s/ Steven Dottheim

Steven Dottheim
Chief Deputy General Counsel
Missouri Bar No. 29149

Attorney for the Staff of the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 751-7489 (Telephone)
(573) 751-9285 (Fax)
email steve.dottheim@psc.mo.gov

Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to all counsel of record this 17th day of March 2004.

/s/ Steven Dottheim