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Missouri Public  
Service Commission

Exhibit No.:

Issues: Regional Transmission  
Org.

Witness: Michael S. Proctor

Sponsoring Party: MO PSC

Type of Exhibit: Cross-Surrebuttal  
Testimony

Case No.: EO-2001-684

Date Testimony Prepared: September 24, 2001

**MISSOURI PUBLIC SERVICE COMMISSION**

**UTILITY OPERATIONS DIVISION**

**CROSS-SURREBUTTAL TESTIMONY**

**OF**

**MICHAEL S. PROCTOR**

**UNION ELECTRIC COMPANY D/B/A AMERENUE**

**CASE NO. EO-2001-684**

Jefferson City, Missouri  
September 2001

1 **CROSS-SURREBUTTAL TESTIMONY**

2 **OF**

3 **MICHAEL S. PROCTOR**

4 **UNION ELECTRIC COMPANY**

5 **d/b/a AmerenUE**

6 **CASE NO. EO-2001-684**

7 **Q. WHAT IS YOUR NAME AND BUSINESS ADDRESS?**

8 A. My name is Michael S. Proctor. My business address is 200 Madison St.,  
9 P.O. Box 360, Jefferson City, Mo. 65102-0360.

10 **Q. ARE YOU THE SAME MICHAEL S. PROCTOR THAT SUBMITTED**  
11 **REBUTTAL TESTIMONY IN THIS CASE?**

12 A. Yes, I am.

13 **Q. WHAT IS THE PURPOSE OF YOUR CROSS-SURREBUTTAL**  
14 **TESTIMONY?**

15 A. The purpose of my cross-surrebuttal testimony is to present a comparison of  
16 the recommendations of the parties that submitted rebuttal testimony in this case. This  
17 comparison is shown in table form on Schedule 1 attached to my cross-surrebuttal  
18 testimony. Schedule 1 lists the recommendations that the various parties have in  
19 common. For completeness the recommendations unique to three of the parties is  
20 included in Schedule 2 attached to my cross-surrebuttal testimony.

21 **Q. IN WHAT WAYS ARE THE RECOMMENDATIONS OF THE FOUR**  
22 **PARTIES SIMILAR AS SHOWN ON SCHEDULE 1?**

Cross-Surrebuttal Testimony  
of Michael S. Proctor

1           A. Each row in the table lists similar recommendations made by Mr. James R.  
2 Dauphinais, representing the Missouri Industrial Energy Consumers (MIEC), Mr. Ryan  
3 Kind, representing the Office of Public Counsel (OPC), Dr. Eve A. Lissik, representing  
4 the Missouri Joint Municipal Electric Utility Commission (MJMEUC), and myself,  
5 representing the Staff of the Missouri Public Service Commission (Staff).

6           **Q. WHAT SIMILARITY IS SHOWN IN THE FIRST ROW OF**  
7 **SCHEDULE 1?**

8           A. The first row of Schedule 1 shows that all four parties recommend against  
9 approval of AmerenUE's request to leave the Midwest ISO (MISO) and join the Alliance  
10 RTO (ARTO) at this time. Common to the rebuttal testimony of all four parties is the  
11 theme that, at this time, it is uncertain whether or not the ARTO will be approved by the  
12 FERC as meeting conditions set out in various FERC Orders regarding the ARTO and  
13 able to begin operations as an RTO by the December 15, 2001 startup date.

14           **Q. WHAT SIMILARITY IS SHOWN IN THE SECOND ROW OF**  
15 **SCHEDULE 1?**

16           A. While the other parties simply ask the Commission to reject Ameren's request  
17 at this time or until the ARTO meets the FERC startup requirements, my  
18 recommendation is that the Commission allow the Alliance an opportunity to meet the  
19 startup date of December 15, 2001, and have the parties submit on December 5, 2001  
20 further testimony on the likelihood of Alliance meeting the startup date, with a follow-up  
21 hearing on December 12, 2001. While the other parties may or may not be opposed to  
22 this procedure, it gives the ARTO an opportunity to respond to the problems that each of

1 the four parties has identified in rebuttal testimony, and is a prudent course of action for  
2 the Commission.

3 **Q. WHAT SIMILARITY IS SHOWN IN THE THIRD ROW OF**  
4 **SCHEDULE 1?**

5 A. The third row sets out specific conditions of concern to the various parties that  
6 the ARTO must meet at the time of startup. These include being in compliance with the  
7 Inter-RTO Coordination Agreement (IRCA) relating to the seams between the MISO and  
8 ARTO, ARTO independence and a stakeholder advisory process.

9 My testimony differs from that of the other parties in that I recommend that a  
10 “permanent” independent Board of Directors be in place. While the other parties did not  
11 address the “permanent” nature of the independent Board of Directors for the ARTO, this  
12 is a critical concern in light of the Alliance proposal for an interim Board that would be  
13 highly restricted in its decisions.

14 With respect to the seams or IRCA issue, three of the parties are concerned that  
15 how broadly the agreement respecting the elimination of pancaked transmission rates will  
16 be applied is not known for certain at this time. For example, if the Southwest Power  
17 Pool (SPP) merges with MISO, it is not clear that elimination of pancaked transmission  
18 rates would apply to SPP members that did not join the MISO by the February 28, 2001  
19 date specified in the Settlement Agreement between MISO and the Alliance. Dr. Lissik  
20 points out that this same uncertainty would apply to Missouri municipal transmission  
21 dependent utilities (TDUs) that have not yet joined an RTO.

22 **Q. WHAT SIMILARITY IS SHOWN IN THE FOURTH ROW OF**  
23 **SCHEDULE 1?**

Cross-Surrebuttal Testimony  
of Michael S. Proctor

1           A. The fourth row sets out the general concern of whether the MISO and ARTO  
2 will ever be able to function together as a "virtual" single RTO for the Midwest region.  
3 While Mr. Dauphinais would set a deadline of December 31, 2001 for the ARTO to meet  
4 the FERC startup requirements, Dr. Lissik and I do not believe that the FERC will wait  
5 that long, and that if ARTO is not able to begin operations as an RTO soon, the FERC  
6 will order a mediation to have a single RTO in the Midwest region.

7           The initial recommendation of my rebuttal testimony is that the Commission not  
8 decide AmerenUE's request to leave the MISO and join the ARTO until the FERC  
9 approves the ARTO to begin operations as an RTO. Then, if the procedures envisioned  
10 by the Settlement Agreement prove not to result in the MISO and ARTO functioning as a  
11 "virtual" single RTO for the Midwest region and the FERC subsequently decides to move  
12 to a single RTO, the effect of another recommendation of my rebuttal testimony is that  
13 Ameren withdraw from the Alliance. This recommendation is different from Mr.  
14 Dauphinais in that he would require AmerenUE to join MISO. I do not necessarily  
15 disagree with the intent of Mr. Dauphinais' recommendation; however, if the FERC  
16 orders a single RTO for the Midwest, it is not clear that the MISO would be that  
17 organization. Thus, Mr. Dauphinais' recommendation should be deemed to suggest that  
18 the Commission require AmerenUE to join either the MISO or the single RTO approved  
19 by the FERC for the Midwest region, should the FERC decide to require a single RTO  
20 for the Midwest region.

21           **Q. WHAT SIMILARITY IS SHOWN IN THE FIFTH ROW OF**  
22 **SCHEDULE 1?**

Cross-Surrebuttal Testimony  
of Michael S. Proctor

1           A. The fifth row sets out the condition of the other parties that AmerenUE not be  
2 allowed to recover in either retail or wholesale rates the exit fee which it agreed to pay to  
3 MISO as a part of the Settlement Agreement. Mr. Dauphinais does allow for the possible  
4 recovery from retail ratepayers of the exit fee to the extent that AmerenUE can prove  
5 comparable savings for Missouri retail customers arising from its switch from MISO to  
6 ARTO. I did not present rebuttal testimony on this issue because I viewed this as either a  
7 rate increase case or rate complaint case issue in which Mr. Dauphinais' condition for  
8 recovery (an expenditure providing net benefits to customers) would be applied as one of  
9 the criteria that would be required for allowing recovery of these costs as "just and  
10 reasonable."

11           **Q. DO YOU HAVE ANY CROSS-SURREBUTTAL TESTIMONY ON THE**  
12 **ADDITIONAL RECOMMENDATIONS SHOWN ON SCHEDULE 2, EACH OF**  
13 **WHICH IS DISTINCT TO ONE OF THE PARTIES IN THE CASE?**

14           A. Yes, I do. If the Commission approves AmerenUE's request to leave MISO  
15 and join ARTO, Mr. Dauphinais would require AmerenUE to abide by the terms and  
16 conditions of the Stipulation And Agreement in Case No. EO-98-413. I have attached as  
17 Schedule 3 to my cross-surrebuttal testimony a copy of the Stipulation And Agreement,  
18 which was approved by the Commission in Case No. EO-98-413 in the course of  
19 authorizing AmerenUE to join the MISO. It should be noted that while Mr. Dauphinais  
20 recommends substituting ARTO for MISO in this set of conditions, condition 6 is very  
21 specific to the "transition" period set out in the original MISO filing at the FERC. An  
22 appropriate substitution for the transition period would be the period covered by the

Cross-Surrebuttal Testimony  
of Michael S. Proctor

1 Settlement Agreement regarding the rate design for elimination of pancaked rates  
2 between the MISO and ARTO, which goes to December 31, 2004.

3 Mr. Dauphinais also recommends that "the Commission in Case No. EC-2002-1  
4 carefully consider whether AmerenUE is earning excess transmission revenues that  
5 should be shared with retail customers in Missouri." All revenues received by AmerenUE  
6 for the test year of the complaint case should be included as a matter of course in  
7 determining AmerenUE's revenue requirement.

8 Mr. Kind recommends that AmerenUE and Ameren agree to hold Missouri  
9 ratepayers harmless from any adverse effects that would result if Ameren were to transfer  
10 its transmission assets at market value to ARTO or any other Transco. Absent a change  
11 in Missouri statutes, AmerenUE would be required to obtain Commission approval for  
12 the sale of its transmission assets, and the "not detrimental to the public interest" standard  
13 would be applied at that time. It appears that Mr. Kind is concerned that Ameren will  
14 convince the Missouri General Assembly to change the law and allow utilities to sell  
15 transmission assets without first obtaining Commission approval. Perhaps a more  
16 appropriate condition than Mr. Kind's proposal would be agreement by Ameren not to  
17 sell its transmission assets without Commission approval, even if such approval is not  
18 required by state statute.

19 The final recommendation on Schedule 2 is my recommendation that Ameren be  
20 required to withdraw from ARTO if it is granted a PBR incentive to take a position in the  
21 market for electricity. Since I have already testified on this in my rebuttal testimony, I  
22 only list it here for completeness.

Cross-Surrebuttal Testimony  
of Michael S. Proctor

1           **Q. DOES THIS CONCLUDE YOUR CROSS-SURREBUTTAL**  
2           **TESTIMONY?**

3           A. Yes, it does.

## COMPARISON OF RECOMMENDATIONS

JAMES R. DAUPHINAIS MIEC	RYAN KIND OPC	EVE A. LISSIK MJMEUC	MICHAEL S. PROCTOR STAFF
Not approve the transfer from MISO to ARTO at this time.	Not approve the transfer from MISO to ARTO at this time.	Not approve the transfer from MISO to ARTO.	Not approve the transfer from MISO to ARTO until additional evidence of December 15, 2001 startup.
No transfer until FERC declares ARTO to have met requirements for the ARTO startup date.	No transfer until FERC determines that ARTO is in compliance with Order 2000 for startup on December 15, 2001.		No transfer unless ARTO is approved by FERC as operational by December 15, 2001.
	<p>No transfer until FERC determines that ARTO is in sufficient compliance with the IRCA and also is in sufficient compliance on:</p> <ol style="list-style-type: none"> <li>1. Business plan</li> <li>2. Independent Market Monitoring plan</li> <li>3. Stakeholder Advisory process</li> <li>4. Revision to protocols on operating, planning &amp; pricing</li> </ol>	<p>Ameren joining ARTO would exacerbate the seams problems that already occur in Missouri.</p> <p>ARTO does not satisfy minimum RTO characteristic of independence.</p>	<p>No transfer unless the ARTO has FERC approved procedures on the IRCA operational by December 15, 2001.</p> <p>No transfer unless ARTO has FERC approved permanent Board of Directors and a Policy Advisory Committee making recommendations to that Board by December 15, 2001.</p>
No transfer unless Ameren agrees to return to MISO if ARTO does not meet FERC startup requirements by December 31, 2002.		FERC may order a mediation to have a single RTO in the entire Midwest region.	No transfer unless Ameren agrees to withdraw from the ARTO if the FERC orders a single RTO in the Midwest.
No transfer unless AmerenUE agrees not to recover \$12.5 million exit fee paid to MISO without proof that comparable savings occur for retail Missouri customers as a result of Ameren's move to ARTO.	No transfer unless AmerenUE and Ameren agree to hold its Missouri ratepayers harmless and never seek recovery of the \$18 million exit fee paid to MISO.	Missouri municipal TDUs will not benefit from Ameren joining ARTO and the \$12.5 million dollars should not be recovered in transmission rates.	

## ADDITIONAL RECOMMENDATIONS

<b>JAMES R. DAUPHINAIS</b> <b>MIEC</b>	<b>RYAN KIND</b> <b>OPC</b>	<b>MICHAEL S. PROCTOR</b> <b>STAFF</b>
No transfer unless Ameren agrees to abide by the terms and conditions of the stipulation and agreement in Case No. EO-98-413.		
In Case No. EC-2002-1 the Commission should address Ameren's excess transmission revenues to be shared with retail Missouri customers.		
	No transfer unless AmerenUE and Ameren agree to hold Missouri ratepayers harmless from any adverse rate effects that would result from the transfer of transmission assets at market value to ARTO or any other Transco.	
		No transfer unless Ameren agrees to withdraw from the ARTO if ARTO is granted a PBR incentive to take a position in the market.

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the Matter of the Application of Union     )  
Electric Company for an Order Authorizing     )     Case No. EO-98-413  
It to Participate in the Midwest ISO     )

**STIPULATION AND AGREEMENT**

Comes now the undersigned parties, Union Electric Company d/b/a AmerenUE (AmerenUE or the Company), the Staff of the Missouri Public Service Commission (Staff), the Office of the Public Counsel (Public Counsel), and the Missouri Industrial Energy Consumers (the MIEC) <sup>1</sup>, and submit to the Missouri Public Service Commission (Commission) for its consideration and approval the following Stipulation and Agreement (Stipulation) in settlement of the above-styled case.

**Background**

1. On January 15, 1998, AmerenUE and several other transmission owners filed applications with the Federal Energy Regulatory Commission (FERC) requesting permission to transfer control of their transmission facilities to the Midwest Independent Transmission System Operator, Inc. (Midwest ISO). These transmission owners requested approval of the Midwest ISO's Transmission Tariff (Tariff) and Operating Agreement (Agreement).
2. On March 30, 1998, AmerenUE filed with the Commission an Application for an order authorizing the Company to participate in the Midwest ISO. AmerenUE's filing was designed to comply with the Commission's Report and Order of February 21, 1997 in Case No. EM-96-149 approving the merger of Union Electric and CIPSCO, Inc.

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<sup>1</sup> Adam's Mark Hotel, Alumax Foils, Inc., Anheuser-Busch Companies, Inc., The Boeing Company, Ford Motor Company, Holnam, Inc., Hussman Corporation, Mallinckrodt Inc., MEMC Electronic Materials, Inc., Monsanto Company and Precoat Metals.

3. In its Report and Order of February 21, 1997, the Commission approved the merger on the condition that AmerenUE “participate in a regional ISO that eliminates pancaked transmission rates and that is consistent with the ISO guidelines set out in FERC Order 888”. (at page 16)

4. On September 16, 1998, the FERC issued its order conditionally approving the establishment of the Midwest ISO. The FERC also conditionally approved the transfer of control of transmission facilities to the Midwest ISO. It also conditionally accepted the Midwest ISO Tariff and Agreement. AmerenUE filed a copy of the FERC order in this proceeding on October 15, 1998. In its Order, the FERC concluded that the Midwest ISO would eliminate pancaked transmission rates. (at page 33) The FERC also concluded that the Midwest ISO was consistent with FERC’s ISO principles set forth in its Order 888, either as proposed by the Midwest ISO or as modified by the FERC. (at pages 19-60)

#### **Items Specific to this Settlement**

5. The undersigned parties agree that the Commission should grant AmerenUE’s Application, and should allow the Company to participate in the Midwest ISO, subject to the conditions set forth in this Stipulation.

6. The undersigned parties agree that the Commission should grant the Company permission to join the Midwest ISO for the six year transition period. The transition period is defined in the Midwest ISO’s Tariff as “The period from the first day the ISO begins providing transmission service to the last day of the sixth year after the ISO begins providing transmission service”. (Section 1.44a)

7. AmerenUE shall request that the Midwest ISO file its position on the following issues with the FERC at least one year before the end of the transition period:

- a. Implementation of congestion pricing that allows the Midwest ISO to measure the most valued use of scarce transmission capacity;
- b. An equitable resolution of the post-transition application of the Midwest ISO Tariff to bundled retail load; and
- c. A proposal for addressing incentives for the efficient location of generation and construction of transmission facilities within the Midwest ISO.

Additionally, AmerenUE and the other undersigned parties, at their option, may file their positions on these issues with the FERC at or before the same time.

8. No later than six months prior to the end of the six year transition period, AmerenUE shall file with the Commission a request to join on a permanent basis the Midwest ISO, another ISO, or some appropriate regional transmission entity. In this filing, AmerenUE shall address the issues in paragraph no. 7 a) through c).

9. If by six months prior to the end of the transition period, the issues set forth in paragraph no. 7 a) through c) have not been addressed in a FERC Order concerning the Midwest ISO, the undersigned parties agree that AmerenUE may file a petition with the Commission requesting an extension of its membership in the Midwest ISO, and an extension of the Company's requirement to file with the Commission as set forth in paragraph no. 8 .

10. AmerenUE shall also address the need, if any, for independence in the control area functions not being performed by the Midwest ISO. The Company shall address this issue when the earlier of the following two events occurs: 1) the filing required by paragraph no. 8 above; or 2) the time the Commission considers market power issues subsequent to a legislative mandate to allow retail customers in Missouri to choose their suppliers of electricity other than on a pilot basis.

11. In the event that AmerenUE seeks to withdraw from its participation in the

Midwest ISO pursuant to Article Five or Article Seven of the Midwest ISO Agreement, the Company shall file a Notice of Withdrawal with the Commission, and with any other applicable regulatory agency, and such Withdrawal shall become effective when the Commission, and such other agencies, approve or accept such Notice or have otherwise allowed it to become effective.

12. AmerenUE states that to the best of its knowledge, information, and belief all of its transmission facilities—that is, facilities accounted for as transmission under the FERC Uniform System of Accounts—will be transferred to the control of the Midwest ISO, except for the following transmission facilities: Generator Step-Up Transformers, generator lead lines, and their breaker positions. These non-transferred transmission facilities serve to connect the Company's power plants to Ameren's transmission system. They are not networked facilities. Pursuant to the Midwest ISO Agency Agreement, all of the transmission owners will make such non-transferred transmission facilities available to the Midwest ISO so that it may provide "one stop shopping" under the ISO's Tariff over all transmission facilities in the Midwest ISO region. (Agreement, Appendix G to the ISO Operating Agreement)

#### **General Items for Settlement**

13. If requested by the Commission, the Staff shall have the right to submit to the Commission a memorandum explaining its rationale for entering into this Stipulation. Each party of record shall be served with a copy of any memorandum and shall be entitled to submit to the Commission, within five (5) days of receipt of the Staff's memorandum, a responsive memorandum which shall also be served on all parties. All memoranda submitted by the parties shall be considered privileged in the same manner as are settlement discussions under the Commission rules, shall be maintained on a confidential basis by all parties, and shall not become a part of the record of this proceeding, or bind or prejudice the party submitting such memorandum in any future proceeding or in

this proceeding whether or not the Commission approves this Stipulation. The contents of any memorandum provided by any party are its own and are not acquiesced in or otherwise adopted by the other signatories to this Stipulation, whether or not the Commission approves and adopts this Stipulation.

14. The Staff also shall have the right to provide, at any agenda meeting at which this Stipulation is noticed to be considered by the Commission, whatever oral explanation the Commission requests, provided that the Staff shall, to the extent reasonably practicable, provide the other parties with advance notice of when the Staff shall respond to the Commission's request for such explanation once such explanation is requested from the Staff. The Staff's oral explanation shall be subject to public disclosure, except to the extent it refers to matters that are privileged or protected from disclosure pursuant to any Protective Order issued in this case.

15. None of the parties to this Stipulation shall be deemed to have approved or acquiesced in any question of Commission authority, accounting authority order principle, decommissioning methodology, ratemaking principle, valuation methodology, cost of service methodology or determination, cost of capital methodology, capital structure, depreciation principle or method, rate design methodology, cost allocation, cost recovery, or prudence that may underlie this Stipulation, or for which provision is made in this Stipulation.

16. The Stipulation represents a negotiated settlement. Except as specified herein, the parties to this Stipulation shall not be prejudiced, bound by, or in any way affected by the terms of this Stipulation (a) in any future proceeding; (b) in any proceeding currently pending under a separate docket; and/or (c) in this proceeding should the Commission decide not to approve the Stipulation in the instant proceeding, or in any way condition its approval of same.

17. The provisions of this Stipulation have resulted from extensive negotiations among the signatories and are interdependent. In the event that the Commission does not approve and adopt the terms of this Stipulation in total, it shall be void and no party hereto shall be bound by, prejudiced, or in any way affected by any of the agreements or provisions hereof unless otherwise provided herein.

18. The prepared testimonies and schedules of the following witnesses shall be received into evidence without the necessity of these witnesses taking the witness stand:

R. Alan Kelley, AmerenUE (Direct and Surrebuttal)

James R. Dauphinais, MIEC (Rebuttal)

Ryan Kind, OPC (Rebuttal and Cross-Surrebuttal)

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

19. In the event the Commission accepts the specific terms of this Stipulation, the signatories waive their respective rights to cross-examine witnesses, their respective rights to present oral argument and written briefs pursuant to Section 536.080.1 RSMo 1994; their respective rights to the reading of the transcript by the Commission pursuant to Section 536.080.2 RSMo 1994; and their respective rights to judicial review pursuant to Section 386.510 RSMo 1994. This waiver applies to a Commission Report And Order respecting this Stipulation issued in these proceedings, and does not apply to any matters raised in any subsequent Commission proceeding, or any matters not explicitly addressed by this Stipulation.


WHEREFORE, the undersigned parties request that the Commission approve this Stipulation and Agreement.

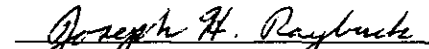
COMMISSION STAFF

DANA K. JOYCE  
General Counsel

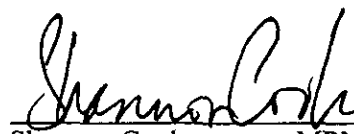
Respectfully submitted,

UNION ELECTRIC COMPANY  
d/b/a AmerenUE

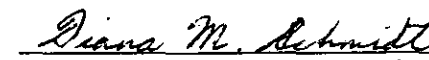
  
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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, postage prepaid, or hand-delivered to all counsel of record as shown on the attached service list this 22nd day of April, 1999.

