

Exhibit No.:
Issues: *Allocations; Injuries and Damages; and Territorial Agreements*
Witness: *Doyle L. Gibbs*
Sponsoring Party: *MoPSC Staff*
Type of Exhibit: *Direct Testimony*
Case No.: *EM-96-149*
Date Testimony Prepared: *April 12, 2002*

MISSOURI PUBLIC SERVICE COMMISSION

UTILITY SERVICES DIVISION

DIRECT TESTIMONY

OF

DOYLE L. GIBBS

FILED

APR 15 2002

**Missouri Public
Service Commission**

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

CASE NO. EM-96-149

*Jefferson City, Missouri
April 2002*

**TABLE OF CONTENTS OF
DIRECT TESTIMONY OF
DOYLE L. GIBBS
UNION ELECTRIC COMPANY
d/b/a AMERENUE
CASE NO. EM-96-149**

1
2
3
4
5
6
7
8
9
10

ALLOCATIONS..... 2
TERRITORIAL AGREEMENTS 4
INJURIES AND DAMAGES..... 7

1 **DIRECT TESTIMONY**

2 **OF**

3 **DOYLE L. GIBBS**

4 **UNION ELECTRIC COMPANY**

5 **d/b/a AMERENUE**

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

7
8
9 Q. Please state your name and business address.

10 A. Doyle L. Gibbs, 815 Charter Commons Drive, Suite 100B, Chesterfield,
11 Missouri 63017.

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

13 A. I am employed by the Missouri Public Service Commission (Commission) as
14 a Regulatory Auditor.

15 Q. Please describe your educational background.

16 A. I attended the University of Missouri – St. Louis, where I received a Bachelor
17 of Science degree in Business Administration with a major in Accounting in 1976. I passed
18 the Uniform Certified Public Accountant examination in 1988. I have been licensed as a
19 Certified Public Accountant in the state of Missouri since February 1989.

20 Q. What has been the nature of your duties while in the employ of this
21 Commission?

22 A. I have conducted and assisted with the audits and examinations of the books
23 and records of utility companies operating within the state of Missouri.

24 Q. Have you previously filed testimony before the Commission?

Direct Testimony of
Doyle L. Gibbs

1 A. Yes, I have. Please refer to Schedule 1, attached to this direct testimony, for a
2 list of cases in which I have previously filed testimony.

3 Q. With reference to Case No. EM-96-149, have you made an examination of the
4 books and data supporting the calculation of credits for the third sharing period of the second
5 Experimental Alternative Regulation Plan (EARP) of Union Electric Company, d/b/a
6 AmerenUE (UE or Company)?

7 A. Yes, with the assistance of other members of the Commission Staff (Staff).

8 Q. Please identify the principal areas of responsibility you are sponsoring in your
9 direct testimony.

10 A. My principal areas of responsibility include allocations, territorial agreements
11 and injuries and damages.

12 Q. Please identify the adjustments you are sponsoring.

13 A. I am sponsoring adjustments P-8.3 to Plant In Service, R-8.3 to Depreciation
14 Reserve, and the income statement adjustments S-1.3, S-4.3, S-8.1 and S-18.1 related to
15 territorial agreements. I am also sponsoring the income statement adjustment S-13.2 to
16 injuries and damages.

17 **ALLOCATIONS**

18 Q. What are the allocation factors that are being used by the Staff in this case?

19 A. The allocation factors used by the Staff were calculated using data for the 12
20 months ending June 30, 2001. The data used by the Staff corresponds to the same data used
21 by UE to develop the allocation factors included in its preliminary filing for the third sharing
22 period of the second EARP.

Direct Testimony of
Doyle L. Gibbs

1 Q. Is the methodology used by the Staff to calculate the allocation factors the
2 same as that used by the Company?

3 A. The methodology used by the Staff is generally the same as that used by the
4 Company in its filing in this, the third sharing period of the second EARP. However, the
5 results are slightly different due to rounding.

6 Q. In what way is a difference created as a result of rounding?

7 A. The Company's calculation rounded the allocation percentages to two decimal
8 places. Mathematically, particularly with regards to the fixed allocation factor, the sum of
9 the allocation factors for all jurisdictions, when rounded to two decimal places, totaled
10 something less than 100%. The Company's fixed allocation factor for the Missouri
11 jurisdiction was increased to make up for that difference. The Staff calculations were carried
12 out beyond the second decimal so that the sum of the jurisdictional allocation factors equaled
13 100%.

14 Q. What is the overall impact of the rounding difference?

15 A. The Staff's allocation factors, as a result of rounding beyond two decimal
16 places, caused the sharing credits to increase approximately \$279,000.

17 Q. According to which terms of the Stipulation And Agreement in Case No.
18 EM-96-149 (Stipulation And Agreement) is the Staff proposing this adjustment?

19 A. Section 7.f.vii of the Stipulation And Agreement states:

20 UE, Staff, OPC and other signatories reserve the right to bring issues
21 which cannot be resolved by them, and which are related to the
22 operation or implementation of the New Plan, to the Commission for
23 resolution. Examples include disagreements as to the mechanics of
24 calculating the monitoring report, alleged violations of the Stipulation
25 And Agreement, alleged manipulations of earnings results, or requests
26 for information not previously maintained by UE. An allegation of
27 manipulation could include significant variations in the level of

1 expenses associated with any category of cost, where no reasonable
2 explanation has been provided. The Commission will determine in the
3 first instance whether a question of manipulation exists and whether
4 that question should be heard by it.

5 I would also note that the Reconciliation Procedure, Attachment C, Section 2.g states,
6 in part, that:

7 UE/Staff/OPC reserve the right to petition the Commission for
8 resolution of disputed issues relating to the operation or
9 implementation of the Plan.

10 The Staff believes this difference in allocations is a disagreement regarding the
11 mechanics of calculating the monitoring reports.

12 **TERRITORIAL AGREEMENTS**

13 Q. Please identify all the adjustments you are sponsoring related to territorial
14 agreements.

15 A. I am sponsoring Adjustment P-8.3 to Plant-in-Service contained in
16 Accounting Schedule 4, Adjustments to Plant In Service; Adjustment R-8.1 to Depreciation
17 Reserve on Accounting Schedule 6, Adjustments to Depreciation Reserve; and the Income
18 Statement Adjustments S-1.3 and S-4.3, S-8.1 and S-18.1 on Accounting Schedule 8,
19 Adjustments to Income Statement.

20 Q. What is the purpose of the adjustments related to the territorial agreements?

21 A. The Staff adjustments for territorial agreements are designed to reverse the
22 effect on earnings related to five territorial agreements by restoring the net investment
23 (Adjustment P-8.3 to Plant in Service less Adjustment R-8.1 to Depreciation Reserve),
24 revenue (Adjustment S-1.3) and expenses (Adjustments S-4.3, S-8.1 and S-18.1) as if the
25 territorial agreements did not exist. The territorial agreements considered in the

Direct Testimony of
Doyle L. Gibbs

1 determination of the adjustments were between UE and the following cooperatives or
2 municipal utility identified by the associated Commission case numbers:

3	Black River Cooperative	EO-95-400
4	Macon Electric Cooperative	EO-97-6, et al.
5	Farmers' Electric Cooperative	EO-98-511, et al.
6	City of Kennett	EM-99-106, et al.
7	Ozark Border Electric Cooperative	EO-99-599

8 In the above-referenced cases involving Macon Electric Cooperative, Ozark Border
9 Electric Cooperative and the City of Kennett, Case Nos. EO-97-6, et al., EO-99-599 and
10 EM-99-106, et al., respectively, the Report And Orders, either expressly or by reference to
11 the applicable Stipulation And Agreement, provided that no party had acquiesced to any
12 ratemaking principle. No such language existed in the Report And Orders for Case Nos.
13 EO-95-400 and EO-98-511, concerning Black River Cooperative and Farmers' Electric
14 Cooperative, respectively. However, the absence of such language did not prevent the Staff
15 from making an adjustment that the Commission accepted in Case No. EO-96-14 for the
16 third year sharing credit period of the first EARP. The Staff made similar adjustments in the
17 first and second year sharing credit periods of the second EARP, Case No. EM-96-149.

18 Although the Staff recommended approval of these territorial agreements, it was with
19 the intention that the Staff would subsequently examine and address the effect of the
20 agreements on earnings for ratemaking purposes and as part of the annual review of earnings
21 for the EARP.

22 Q. Why was this condition necessary?

Direct Testimony of
Doyle L. Gibbs

1 A. It is my understanding that the standard that must be met for approval of a
2 territorial agreement, according to Missouri statute, Section 394.312.4 RSMo. 2000, is that
3 the agreement in total is not detrimental to the public interest. The Commission rule,
4 4 CSR 240-2.060(13), requires that the applicant explain why the territorial agreement is in
5 the public interest. As a result of these territorial agreements, the Company's earnings were
6 less than they would have been without the agreements. The decline in earnings resulted
7 from UE realizing a net loss of customers and associated revenue from the exchange of
8 portions of its service area for portions of the service areas of the affected cooperatives and
9 municipal utility. In the Staff's opinion, this situation would constitute detriment to the
10 public interest, if the loss of earnings were reflected in customer rates.

11 Q. How do the Staff's proposed adjustments prevent public detriment?

12 A. The adjustments reverse the net reduction in earnings realized during the test
13 year by restoring the net investment, revenue and expense levels as if the territorial
14 agreements had not taken place. Adjustments P-8.3 and R-8.1, respectively, restore the plant
15 and depreciation reserve. Adjustment S-1.3 restores the lost revenue and Adjustments S-4.3,
16 S-8.1 and S-18.1 adjust the fuel, maintenance and depreciation expenses, respectively, that
17 would have been incurred. By restoring the net reductions in earnings, the Staff has
18 eliminated any detrimental impacts on the public interest.

19 Q. According to which terms of the Stipulation And Agreement in Case No.
20 EM-96-149 (Stipulation And Agreement) is the Staff proposing this adjustment?

21 A. As cited above, Section 7.f.vii. states that the parties reserve the right to bring
22 issues, which are related to the operation or implementation of the EARP to the Commission

1 for resolution. Also as previously indicated, the Commission ordered this adjustment as a
2 result of a hearing regarding the third sharing period of the first EARP.

3 **INJURIES AND DAMAGES**

4 Q. Please explain injuries and damages expense.

5 A. The Company accrues for injuries and damages expense based on an estimate
6 of claims that the Company anticipates will be incurred, rather than amounts that are actually
7 paid out. The accrual is accumulated in a reserve account against which actual claims are
8 charged when paid. The reserve represents funds estimated to be paid in the future for claims
9 related to medical costs, workman's compensation costs and lawsuits relating to injuries and
10 damages.

11 Q. Please explain how you calculated adjustment S-13.2.

12 A. Adjustment S-13.2 adjusts injuries and damages expense to reflect the actual
13 charges for the 12 months ending June 30, 2001.

14 Q. Why is the Staff recommending the use of actual payments for injuries and
15 damages expense?

16 A. During the test year, the accrued injuries and damages expense was over
17 300% in excess of the actual payments. This represents a significant reduction in earning and
18 sharing credits as a result of an estimate of some unknown payments at an unspecified future
19 date. The Staff's adjustment avoids the excess accrual which has resulted during the current
20 sharing period and which will continue to exist during the EARP. The Staff's adjustment is
21 appropriate because it eliminates this large over-accrual situation and at the same time it
22 reflects the actual injuries and damages payments during this third sharing period of the
23 second EARP.

1 Q. Has the Company significantly over-accrued injuries and damages expense
2 during the six sharing periods of the first and second EARP?

3 A. Yes. During the current sharing period the injuries and damages reserve has
4 increased by over 160%. During the six sharing periods, from July 1, 1995 through
5 June 30, 2001, the injuries and damages reserve has increased over 150%.

6 Q. What explanation has the Company provided for the excess accrual?

7 A. The Company indicates that it assesses its potential liability regarding future
8 payments for injuries and damages claims and bases its injuries and damages accrual on this
9 assessment. However, as has been previously discussed, the Company has accrued more
10 than three times the level of actual cash payments during the current sharing period.

11 Q. According to which terms of the Stipulation And Agreement in Case No.
12 EM-96-149 is the Staff proposing this adjustment?

13 A. Section 7.f.vi. states:

14 If Staff, OPC or other signatories find evidence that operating results
15 have been manipulated to reduce amounts to be shared with customers
16 or to misrepresent actual earnings or expenses, Staff, OPC or other
17 signatories may file a complaint with the Commission requesting that a
18 full investigation and hearing be conducted regarding said complaint.
19 UE shall have the right to respond to such request and present facts
20 and argument as to why an investigation is unwarranted.

21 This section, along with Section 7.f.vii. cited above, provides the Staff's justification for
22 proposing this adjustment. The Staff believes that the difference between accrued injuries
23 and damages expenses and actual injuries and damages payments is excessive and also
24 represents a significant variation in expense with no reasonable explanation. The Staff also
25 believes that by calculating earnings for sharing credits based on accrued levels of expense
26 for injuries and damages that is three times more than actual cash payments represents a

Direct Testimony of
Doyle L. Gibbs

1 reduction to amounts to be shared with customers. Therefore, the Staff believes that this
2 action represents a manipulation of earnings results.

3 Q. Does this conclude your direct testimony?

4 A. Yes, it does.

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

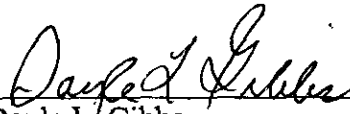
In The Matter Of The Application Of Union)
Electric Company For An Order Authorizing: (1))
Certain Merger Transactions Involving Union)
Electric Company; (2) the Transfer of Certain)
Assets, Real Estate, Leased Property, Easements)
And Contractual Agreements To Central Illinois)
Public Service Company; And (3) In Connection)
Therewith, Certain Other Related Transactions.)

Case No. EM-96-149

AFFIDAVIT OF DOYLE L. GIBBS

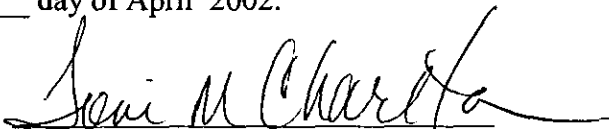
STATE OF MISSOURI)
)
COUNTY OF COLE) ss.

Doyle L. Gibbs, is, of lawful age, and on his oath states: that he has participated in the preparation of the foregoing Direct Testimony in question and answer form, consisting of 9 pages to be presented in the above case; that the answers in the foregoing Direct 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.



Doyle L. Gibbs

Subscribed and sworn to before me this 17th day of April 2002.



Notary Public



TONI M. CHARLTON
NOTARY PUBLIC STATE OF MISSOURI
COUNTY OF COLE
My Commission Expires December 28, 2004

RATE CASE PROCEEDINGS
DOYLE L. GIBBS

<u>Company</u>	<u>Case Number</u>
Arkansas Power & Light Company	ER-85-20
Arkansas Power & Light Company	ER-85-265
Associated Natural Gas Company	GR-79-126
Atmos Energy Corporation/United Cities Gas Company	GM-97-70
Capital City Water Company	WR-82-117
Citizens Electric Cooperative	ER-79-102
Citizens Electric Cooperative	ER-81-79
Empire District Electric Company	ER-95-279
Laclede Gas Company	GR-77-33
Laclede Gas Company	GR-78-148
Laclede Gas Company	GR-80-210
Laclede Gas Company	GR-81-245
Laclede Gas Company	GR-82-200
Laclede Gas Company	GR-96-193
Laclede Gas Company	GR-98-374
Laclede Gas Company	GR-99-315
Lake St. Louis Sewer Company	SR-80-189
Missouri-American Water Company	WR-89-265
Missouri-American Water Company	WM-93-255
Missouri-American Water Company	WR-93-212
Missouri-American Water Company	WR-97-237
Missouri-American Water Company	SR-97-238
Missouri-American Water Company	WO-98-204
Missouri-American Water Company	SR-2000-282
Missouri-American Water Company	WR-2000-281
Missouri Cities Water Company	WR-78-107
Missouri Cities Water Company	SR-78-108
Missouri Cities Water Company	WR-83-14
Missouri Cities Water Company	SR-83-15
Missouri Cities Water Company	WR-85-157
Missouri Cities Water Company	SR-85-158
Missouri Cities Water Company	WR-86-111
Missouri Cities Water Company	SR-86-112
Missouri Cities Water Company	WR-89-178
Missouri Cities Water Company	SR-89-179
St. Joseph Water Company	WR-77-226
St. Louis County Water Company	WR-78-276
St. Louis County Water Company	WR-83-264
St. Louis County Water Company	WR-87-2
St. Louis County Water Company	WR-88-5
St. Louis County Water Company	WR-94-166

RATE CASE PROCEEDINGS
DOYLE L. GIBBS

<u>Company</u>	<u>Case Number</u>
St. Louis County Water Company	WR-2000-844
Southwestern Bell Telephone Company	TR-79-213
Southwestern Bell Telephone Company	TR-80-256
Southwestern Bell Telephone Company	TR-86-84
Union Electric Company	ER-77-154
Union Electric Company	ER-80-17
Union Electric Company	ER-81-180
Union Electric Company	HR-81-259
Union Electric Company	ER-82-52
Union Electric Company	ER-83-163
Union Electric Company	ER-84-168
Union Electric Company d/b/a AmerenUE	EC-2002-1