

Exhibit No.: _____
Issue(s): Extension of Interim Approval
To Participate in MISO
Witness/Type of Exhibit: Kind/Surrebuttal
Sponsoring Party: Public Counsel
Case No.: EO-2011-0128

SURREBUTTAL TESTIMONY

OF

RYAN KIND

Submitted on Behalf of
the Office of the Public Counsel

**UNION ELECTRIC COMPANY
D/B/A AMEREN MISSOURI**

Case No. EO-2011-0128

November 1, 2011

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

In the Matter of the Application of Union)	
Electric Company for Authority To)	
Continue the Transfer of Functional)	Case No. EO-2011-0128
Control of Its Transmission System to the)	
Midwest Independent Transmission)	
System Operator, Inc.)	

AFFIDAVIT OF RYAN KIND

STATE OF MISSOURI)
) ss
COUNTY OF COLE)


Ryan Kind, of lawful age and being first duly sworn, deposes and states:

1. My name is Ryan Kind. I am a Chief Utility Economist for the Office of the Public Counsel.
2. Attached hereto and made a part hereof for all purposes is my surrebuttal testimony.
3. I hereby swear and affirm that my statements contained in the attached affidavit are true and correct to the best of my knowledge and belief.



Ryan Kind

Subscribed and sworn to me this 1st day of November 2011.



Jerene A. Buckman
Notary Public

My commission expires August 23, 2013.

SURREBUTTAL TESTIMONY
OF
RYAN KIND
UNION ELECTRIC COMPANY
CASE NO. EO-2011-0128

1 **Q. PLEASE STATE YOUR NAME, TITLE, AND BUSINESS ADDRESS.**

2 A. Ryan Kind, Chief Energy Economist, Office of the Public Counsel, P.O. Box 2230,
3 Jefferson City, Missouri 65102.

4 **Q. ARE YOU THE SAME RYAN KIND THAT HAS PREVIOUSLY FILED REBUTTAL TESTIMONY**
5 **IN THIS CASE?**

6 A. Yes.

7 **Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?**

8 A. The purpose of my surrebuttal testimony is to respond to the rebuttal testimony of
9 several witnesses that filed rebuttal testimony including: James Dauphinais of
10 behalf of Missouri Industrial Energy Customers (MIEC), Marlin Vrbas on behalf
11 of the Missouri Joint Municipal Electric Utility Commission (MJMEUC), and
12 Adam Mckinnie on behalf of the Commission Staff (Staff).

13 **Q. PLEASE DESCRIBE THE ISSUE RAISED BY MJMEUC WITNESS MARLIN VRBAS TO**
14 **WHICH YOU WILL RESPOND IN THIS TESTIMONY.**

15 A. At line 6 on page 5 of his testimony, Mr. Vrbas states “MJMEUC is

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1 Meanwhile, MJMEUC is aware that Ameren Corporation favors a PJM-
2 style capacity market in MISO and expects this would result in increased
3 revenues to Ameren. (See ‘Ameren Corporation CEO Discusses Q4 2010
4 Results - Earnings Call Transcript’ at
5 [http://seekingalpha.com/article/254285-ameren-corporation-ceo-](http://seekingalpha.com/article/254285-ameren-corporation-ceo-discusses-q4-2010-results-earnings-call-transcript?source=from_friend)
6 [discusses-q4-2010-results-earnings-call-transcript?source=from_friend](http://seekingalpha.com/article/254285-ameren-corporation-ceo-discusses-q4-2010-results-earnings-call-transcript?source=from_friend)

7 The web link that was provided by Mr. Vrbas was a link to the transcript from the fourth
8 quarter 2010 Ameren earnings conference call. UE provided a copy of this transcript in
9 response to OPC DR No. 3035. The portion of this transcript that contains the reference
10 to Ameren Corporation favoring “a PJM style capacity market” contained the following
11 exchange between Paul Patterson of Glencock Associates and Ameren President and
12 CEO Thomas Voss:

13 Paul Patterson - Okay, and then just we've seen some companies move
14 from MISO to PJM, partly, I think, because of capacity pricing
15 differentials. I was wondering if you guys were thinking about anything
16 like that or how you're looking at the capacity markets going forward in
17 your area versus what you might be seeing otherwise if you were in
18 PJM?

19 Thomas Voss - This is Tom Voss. **We have been working with MISO**
20 **to develop a better capacity market so it looks more like PJM's**
21 **market, capacity market**, and we expect MISO to file sometime later
22 this year a plan to the FERC that would show a better capacity market
23 than what currently exists, so our plans right now are to work with MISO
24 on improving that. [Emphasis Added]

25 Paul Patterson - How soon should we think about the changes that MISO
26 might propose actually flowing through to the bottom line of generators
27 in MISO?

28 Thomas Voss - Well we think right now that if everything goes right and
29 everything keeps moving it should be some time in the 2012 year.

30 Paul Patterson - Okay, thanks a lot.

31 **Q. DID YOU KNOW THAT AMEREN HAD BEEN “WORKING WITH MISO TO DEVELOP A**
32 **BETTER CAPACITY MARKET SO IT LOOKS MORE LIKE PJM'S [CAPACITY] MARKET**
33 **PRIOR TO SEEING MR. VRBAS’ STATEMENT ON THIS SUBJECT IN HIS REBUTTAL**
34 **TESTIMONY?**

1 A. No.

2 **Q. DID YOU EVEN KNOW THAT AMEREN OR ANY OF ITS AFFILIATES HAD AN INTEREST IN**
3 **SEEING MISO DEVELOP A PJM TYPE CAPACITY MARKET PRIOR TO SEEING MR.**
4 **VRBAS' STATEMENT ON THIS SUBJECT IN HIS REBUTTAL TESTIMONY?**

5 A. No. I have not had any discussions with representatives of UE or its affiliates
6 where Ameren's interest in seeing MISO develop a PJM type capacity market was
7 discussed.

8 **Q. WHAT WAS YOUR REACTION WHEN YOU LEARNED OF AMEREN'S SUPPORT FOR THE**
9 **DEVELOPMENT OF A PJM TYPE CAPACITY MARKET AT MISO?**

10 A. Initially, I was surprised. However, when I thought about the interest that Ameren
11 Energy Marketing (AEM) and Ameren Energy Resources (AER) would have in
12 increasing the earnings from Ameren's non-regulated merchant generation assets, it made
13 sense to me that these interests would likely dominate Ameren's policy position on this
14 issue. My other reaction to learning about Ameren's support for the development of a
15 PJM type capacity market at MISO was to draft data requests (DRs) related to this
16 subject and send them to UE. On September 30, 2011 OPC DR Nos. 2035 – 2037 which
17 pertained to this subject were sent to UE. The Company objected to most of these DRs
18 but did provide at least partial responses these DRs where the responses were provided
19 "subject to the Company's objection."

20 **Q. BEFORE YOU DISCUSS THE INFORMATION RECEIVED IN RESPONSE TO YOUR DRs**
21 **RELATED TO AMEREN'S SUPPORT OF PJM TYPE CAPACITY MARKETS AT MISO,**
22 **PLEASE EXPLAIN HOW THIS SUBJECT PERTAINS TO SOME OF THE OTHER REBUTTAL**
23 **TESTIMONY THAT WAS FILED IN THIS CASE.**

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1 A. The question and answer that appear on page 10 of the rebuttal testimony of MIEC
2 witness James Dauphinais focus on the assertion made in the direct testimony of UE
3 witness Ajay Arora where he indicated that UE believes the seven-plus years of
4 participation in MISO markets have provided sufficient evidence to provide the
5 commission, Staff and other stakeholders with a level of confidence in regard to
6 continued benefits from participation to justify a change in how continued participation in
7 MISO is considered by the Commission. Mr. Dauphinais explains in his answer on page
8 10 that

9 Even though it has been seven years since participation in MISO began,
10 we are still seeing new controversial proposals being made that can
11 potentially have a significant adverse impact on Ameren Missouri's
12 ratepayers. Specific examples include the MISO's MVP regional
13 transmission cost allocation approach and MISO's recent Resource
14 Adequacy Requirement Enhancements filing. The former may cause
15 Ameren Missouri's ratepayers to incur costs in excess of the benefits
16 received. The latter, depending on how it is ultimately approved by
17 FERC, could potentially adversely affect Ameren Missouri's Integrated
18 Resource Planning process to the detriment of Ameren Missouri's
19 ratepayers. We have not yet come to the point where it can be assumed
20 that participation in MISO, or any RTO, is more likely to provide a net
21 benefit than a net cost.

22 **Q. WHAT IS YOUR RESPONSE TO THE ABOVE QUOTED ANSWER FROM THE REBUTTAL**
23 **TESTIMONY OF MR. DAUPHINAIS IN LIGHT THE YOUR NEW KNOWLEDGE ABOUT**
24 **AMEREN'S SUPPORT FOR THE DEVELOPMENT OF A PJM TYPE CAPACITY MARKET AS**
25 **PART OF THE MISO RESOURCE ADEQUACY FRAMEWORK?**

26 A. I strongly share the concern that Mr. Dauphinais has about the "new controversial
27 proposals being made that can potentially have a significant adverse impact on Ameren
28 Missouri's ratepayers." Ameren is the largest utility at MISO and I would expect MISO
29 to be responsive the concerns of their largest member, especially with the recent
30 departures of other large MISO members (First Energy and Duke Ohio) from the eastern
31 side of MISO's footprint. In addition to being the largest MISO member, Ameren's

1 unique geographic position covering the southwestern corner of MISO’s footprint make
2 its continued membership in MISO nearly essential in providing the transmission
3 connections that would allow for a successful integration of Entergy into MISO. I would
4 also expect Ameren to have additional leverage at MISO as a result of its transmission
5 connections being essential to bringing Entergy into MISO.

6 As Mr. Dauphinais states in his above quoted answer, the recent MISO Resource
7 adequacy proposal and the risk that FERC may approve some altered version of the
8 original proposal filed at FERC “could potentially adversely affect Ameren Missouri’s
9 Integrated Resource Planning process to the detriment of Ameren Missouri’s ratepayers.”
10 The potential for adverse consequences are heightened by Ameren’s support of PJM type
11 capacity markets. The extent of Ameren’s support of such markets at MISO and at FERC
12 is apparent from the FERC filings made by Ameren and its affiliates in the MISO
13 resource adequacy case at FERC (Docket No. ER-11-4081) and the responses that UE
14 provided to OPC DR Nos. 2035 – 2037.

15 **Q. DOES THE NEW KNOWLEDGE THAT YOU GAINED ABOUT AMEREN’S SUPPORT FOR THE**
16 **DEVELOPMENT OF A PJM TYPE CAPACITY MARKET AT MISO ALSO AFFECT YOUR**
17 **RESPONSE TO THE REBUTTAL TESTIMONY OF ANY OTHER WITNESSES IN THIS CASE?**

18 A. Yes. On pages 24 – 27 of his rebuttal testimony, Staff witness Adam McKinnie responds
19 to several Commission questions from its August 23, 2011 “Order Directing the
20 Commission’s Staff to Respond to the Questions from the Commission in its Prefiled
21 Testimony.” Mr. McKinnie’s response to Commission question number one indicates
22 beginning on line 25 on page 24 that “It is always possible that FERC will order changes
23 to the MISO Resource Adequacy tariff filing via an order requiring a compliance
24 filing...”

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1 One of the ways that I followed up on examining the support of Ameren and its affiliates
2 for the development of a PJM type capacity market at MISO was to examine the FERC
3 filings made by Ameren and its affiliates in the FERC docket where the new MISO
4 Resource Adequacy proposal is being considered by FERC. Consistent with Ameren’s
5 support for PJM type capacity markets, I discovered that Ameren affiliates are either
6 providing luke-warm support or opposition to the opt out and self-scheduling provisions
7 in the MISO Resource Adequacy proposal in FERC Docket No. ER-11-4081. Ameren
8 Energy Marketing (AER) joined in a filing by “Capacity Suppliers” in Docket No. ER-
9 11-4081 that opposed the opt out provision of the Resource Adequacy proposal stating
10 that it is “unjust and unreasonable” and should be rejected. As I stated above, the filing
11 of other Ameren affiliates (including UE) in this docket provided only luke-warm support
12 of the opt out and self-scheduling provisions in the MISO Resource Adequacy proposal.
13 This luke-warm support was evident in the paragraph titled “The Price for Capacity
14 Should Be Market-Based” which appeared on page 13 of the “Motion to Intervene,
15 Comments and Protest of Ameren Services Company” which states

16 Any construct developed should create capacity prices that are created
17 and driven by the market. However, many LSEs are expected to satisfy
18 their capacity requirements through bilateral arrangements or through
19 their own generation. These LSEs will use the MISO’s Self-Scheduling
20 and Opt-Out procedures rather than participating financially in the
21 Planning Resource Auction and buying or selling capacity at the Auction
22 Clearing Price. This means that a significant portion of the capacity
23 needs within MISO will be settled in a manner that may not create
24 transparent locational prices. While Ameren Services does not oppose
25 the use of MISO’s proposed Self-Scheduling feature, this, along with the
26 Opt-Out, raises the concern that the Auction Clearing Price will not send
27 an accurate price signal or provide an accurate locational price, and may
28 produce no price in certain locations. The Commission must consider
29 whether such a design comports with its directive that MISO’s proposal
30 have a locational pricing element.

31 At the end of this paragraph, UE and its affiliates who filed these comments appear to be
32 suggesting that FERC consider rejecting or changing the opt out and self-scheduling
33 provisions when they state:

1 The Commission must consider whether such a design comports with its
2 directive that MISO’s proposal have a locational pricing element.

3 **Q. LET’S TURN NOW TO THE DR RESPONSES TO OPC DR NOS. 2035 – 2037 THAT YOU**
4 **REFERENCED EARLIER. PLEASE DISCUSS HOW UE’S RESPONSES TO THOSE DRs**
5 **ADDED TO YOUR NEW KNOWLEDGE THAT UE AND ITS AFFILIATES ARE SUPPORTIVE OF**
6 **THE DEVELOPMENT OF A PJM TYPE CAPACITY MARKET AT MISO.**

7 A. UE responded to a number of the DRs in the series with a single response that provided
8 documents responsive to OPC DRs 2037, 2038, 2039, 2041, 2042, 2043, 2045, and 2046.
9 See Attachment 1 which contains the DR response cover sheets for all of these DRs. The
10 documents that UE provided as its response “subject to the Company’s objection”
11 were contained in 4 Adobe PDF files. As shown on page 2 of Attachment 1, UE
12 stated that an index describing the responsive documents was also included but I
13 have not been able to locate the “index” that UE asserts is part of its response.

14 I have attached most of the documents that UE provided in response to the series of DRs
15 listed above as Attachment. 2. These are all of the documents that were contained in the
16 Adobe PDF file named “AMMO MISO CB OPC DR 2037-2047 Part 1.pdf.” My review
17 of these documents in attachment 2 verifies that Ameren is strongly supportive of the
18 development of a PJM type capacity market at MISO and helps to explain the financial
19 considerations that drive this interest and identify the tactics used by Ameren to pursue
20 this interest. On pages 4 and 6 of Attachment 2, Ameren’s quantitative analysis of the
21 financial benefits that may accrue to Ameren and its affiliates appears as part of a power
22 point presentation to the Ameren Executive Leadership Team. This presentation shows
23 that the net flows of revenues to Ameren affiliates over the next few years will increase
24 by hundreds of millions of dollars if a PJM type capacity market is put in place at MISO.
25 This same page also shows that electric utility customers in southern Illinois may see
26 their bills increase by hundreds of millions of dollars if a PJM type capacity market is put

1 in place at MISO. Page 6 of this attachment shows this same quantitative analysis with
2 some additional details, including a calculation of the impacts on electric utility
3 customers in southern Illinois that includes cooperative and municipal utility customers.

4 **Q. ARE THERE ADDITIONAL PAGES OR DOCUMENTS IN ATTACHMENT 2 THAT VERIFY THAT**
5 **AMEREN IS STRONGLY SUPPORTIVE OF THE DEVELOPMENT OF A PJM TYPE CAPACITY**
6 **MARKET AT MISO AND HELPS TO EXPLAIN THE FINANCIAL CONSIDERATIONS THAT**
7 **DRIVE THIS INTEREST AND IDENTIFY THE TACTICS USED BY AMEREN TO PURSUE THIS**
8 **INTEREST?**

9 A. Yes, first I would note that, taken as a whole, the Ameren documents in Attachment 2
10 provide a good overview of the process that Ameren used to develop its policy position
11 on RTO capacity markets and the role that the various Ameren affiliates played in this
12 process. Unfortunately, since UE objected to many of the OPC DRs pertaining to UE's
13 support for PJM type RTO capacity markets and provided its DR responses "subject to
14 the Company's objection," OPC is unsure of the completeness of UE's responses to these
15 OPC DRs. Other documents of interest within Attachment 2 include the "Guiding
16 Principles" document beginning on page 19, the acknowledgement of "conflicting
17 business unit viewpoints" within the Ameren corporate family referred to on page 63, the
18 identification of the various Ameren business unit representatives identified on page 65,
19 and a reference to the AER/AEM study of merchant generation impacts (the study itself
20 was not provided) on page 88.

21 **Q. PLEASE SUMMARIZE YOUR CONCLUSIONS FROM THIS TESTIMONY.**

22 A. My main conclusion is that the framework and conditions under which the Commission
23 authorizes an extension of UE participation in MISO should not change from the
24 framework and conditions used in prior cases where UE's MISO participation was

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1 authorized. There are a number of important aspects of MISO's markets (especially
2 those related to the new Resource Adequacy proposal) that are still undergoing dramatic
3 changes and the encouragement by UE and its affiliates to move towards PJM type
4 markets at MISO means that this Commission should be careful to ensure that it
5 maintains an RTO participation framework that allows it to continue protecting the public
6 interest as UE continues to participate at MISO.

7 **Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?**

8 A. Yes.