

Exhibit No.:

Issue(s):

Computer Software Projects;
Annual Mergers & Acquisition Amortization;
Callaway Decommissioning Deposits;
PHFU Property Taxes

Witness/Type of Exhibit:

Robertson/Direct

Sponsoring Party:

Public Counsel

Case No.:

EM-96-149

DIRECT TESTIMONY

OF

TED ROBERTSON

FILED

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Missouri Public
Service Commission

Submitted on Behalf of
the Office of the Public Counsel

UNION ELECTRIC

Case No. EM-96-149

February 23, 1999

DIRECT TESTIMONY
OF
TED ROBERTSON
UNION ELECTRIC COMPANY
CASE NO. EM-96-149

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Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. Ted Robertson, P.O. Box 7800, Jefferson City, Missouri 65102.

Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?

A. I am employed by the Office of the Public Counsel of the State of Missouri ("Public Counsel" or "OPC") as a Public Utility Accountant III.

Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND OTHER QUALIFICATIONS.

A. I graduated from Southwest Missouri State University in Springfield, Missouri, with a Bachelor of Science Degree in Accounting. In November 1988, I passed the Uniform Certified Public Accountant Examination, and obtained a C.P.A. Certification from the State of Missouri in 1989.

Q. WHAT IS THE NATURE OF YOUR CURRENT DUTIES WHILE IN THE EMPLOY OF THE PUBLIC COUNSEL?

A. Under the direction of the Public Counsel Chief Public Utility Accountant, Mr. Russell W. Trippensee, I am responsible for performing audits and examinations of the books and

1 records of public utilities operating within the State of Missouri.

2
3 Q. HAVE YOU EVER TESTIFIED BEFORE THE MISSOURI PUBLIC SERVICE
4 COMMISSION?

5 A. Yes, I have. On Schedule 1 (attached to this Direct Testimony), I have included a listing of
6 the cases in which I have presented testimony before the Missouri Public Service
7 Commission ("MPSC" or "Commission").

8
9 Q. WHAT IS THE PURPOSE OF YOUR DIRECT TESTIMONY?

10 A. The purpose of my Direct Testimony is to support the Public Counsel's recommendations
11 regarding the earnings and sharing reported by Union Electric Company for the third year of
12 its Experimental Alternative Regulation Plan ("EARP"). Public Counsel believes that the
13 earnings reported by the Company in its 1998 Earnings Report are understated and should be
14 adjusted upward to account for various costs which were "flowed-through" in the
15 determination of the sharing levels for the test period. I intend to discuss the Company's
16 actual accounting treatment, and the Public Counsel's recommended accounting treatment of
17 all the alleged costs at issue. If the Commission rules in our favor regarding Public
18 Counsel's proposed recommendations it is expected that the earnings reported will increase
19 and that the sharing due to ratepayers will increase.

20
21 The Company's Earnings Report for the third year of the EARP included costs which

1 Public Counsel believes should not have been treated as expenses during the test period
2 and/or are incorrect as to their calculation. Furthermore, with regard to the
3 decommissioning of Company's Callaway Nuclear Power Plant, OPC recommends that
4 earnings received by the Company on monies not timely deposited into the
5 decommissioning fund be imputed and paid into the decommissioning fund or refunded to
6 customers as soon as possible. Public Counsel believes certain other test period costs
7 included in the Company's 1998 Earnings Report have, for regulatory purposes, been
8 accounted for incorrectly. These include costs incurred for several computer software
9 development and/or modification projects, the annual amortization of costs identified as
10 related to the CIPSCO merger and acquisition, possible lobbying costs related to and/or
11 incurred by the Company's General Counsel's Office, late payment of Callaway Nuclear
12 Plant decommissioning deposits, and property taxes associated with Plant Held For Future
13 Use ("PHFU").

14
15 Q. WHAT IS THE COMPUTER SOFTWARE COST ISSUE?

16 A. The Company was involved in the development of several large computer software projects
17 during the third year of the EARP. The charges for the work performed on these projects
18 were for the most part expensed and "flowed through" the income statement during the test
19 period. The end result of the Company's method of accounting for the costs was that the
20 earnings reported to be shared, by the Company and its customers, was less than Public
21 Counsel believes is appropriate. It is Public Counsel's position that all of the costs

1 associated with the software projects should have been capitalized as investment rather than
2 expensed during the current sharing period. Furthermore, Public Counsel is still
3 investigating whether the costs associated with the projects, as identified by the Company,
4 are complete and accurate.

5
6 The software projects for which we believe should not have had costs "flowed-through"
7 initially as an expense during the test period include the following:

- 8
9 1. Y2K
10 2. Customer Service System
11 3. EMPRV
12 4. AMRAPS
13
14

15 Q. PLEASE EXPLAIN THE Y2K PROJECT AND THE COMPANY'S METHOD OF
16 ACCOUNTING FOR ITS COSTS.

17 A. Apparently, many of the Company's computer systems processed transactions based on
18 storing two digits for the year of a transaction (for example, "96" for 1996), rather than a
19 full four digits. Because the computer systems that are based on two-digit years are not
20 programmed to consider the start of a new century they required modification. Systems
21 that processed year 2000 transactions with the year"00" may have encountered significant
22 processing inaccuracies and even inoperability.

23
24 According to the Company's response to Staff Data Request Nos. 20 and 46, the Company

1 has estimated total costs for this project to be \$10-15 million. Company identified that it
2 incurred external costs of \$1,042,799, and internal costs of \$567,520 for its Information
3 Technology Department during the test period. The Company also stated that internal costs
4 are not specifically tracked for all Year 2000 costs incurred. It's the Public Counsel's
5 understanding that all the costs were expensed according to the Company's interpretation of
6 the Emerging Issues Task Force ("EITF") Issue No. 96-14 statement. The EITF states:
7

8 The Task Force reached a consensus that external and internal costs
9 specifically associated with modifying internal-use software for the year
10 2000 should be charged to expense as incurred. (Source: Staff Data Request
11 No. 35)
12
13

14 Q. DOES PUBLIC COUNSEL BELIEVE THAT THE COSTS THE COMPANY
15 INCURRED TO MODIFY ITS SYSTEMS FOR Y2K SHOULD HAVE BEEN
16 EXPENSED ACCORDING TO THE DIRECTIVE OF EITF NO. 96-14?

17 A. No. Public Counsel believes that the costs incurred by the Company to modifying its
18 computer systems should have been capitalized and amortized over a period representative
19 of the usefulness or the service life of the modifications. EITF No. 96-14, while an
20 authoritative accounting body, is not the premier body responsible for promulgation of
21 "Generally Accepted Accounting Principles" ("GAAP"). The Financial Accounting
22 Standards Board ("FASB") has that responsibility.
23

24 Q. PLEASE EXPLAIN THE CUSTOMER SERVICE SYSTEM PROJECT AND THE

1 COMPANY'S METHOD OF ACCOUNTING FOR ITS COSTS.

2 A. Company response to Staff Data Request No. 51 states:

3
4 ...charge is for the installation of the Anderson Consulting's Customer/1
5 product. This product was purchased to replace the existing legacy
6 Customer Information systems (CIS) for Ameren. The replacement was
7 necessary due to the legacy systems being quite out-dated and cumbersome,
8 as well as giving the Company flexibility to meet customer needs.", and
9 "...charge is for the first phase of the installation of Customer/1 which will
10 address large Commercial and Industrial customers. Subsequent phases will
11 address the balance of the industrial and commercial customers and
12 residential customer.
13
14

15 It's the Public Counsel's understanding that the system automates customer information
16 storage and retrieval, bill calculation, and processing. According to the Company's
17 response to Staff DR No. 44 and 69, the total cost of this system is expected to be \$22.5M.

18 During the test period, 7/1/97 - 6/30/98, total costs incurred were \$13.7M of which \$1.4M
19 was capitalized and \$12.3M was charged to operating expense. The total Customer Service
20 System ("CSS") costs expensed for the third credit period for AmerenUE Missouri Electric
21 was \$9,984,000 (Source: Staff Data Request No 78).
22

23 Q. DOES PUBLIC COUNSEL BELIEVE THAT THE COSTS COMPANY INCURRED TO
24 DEVELOP THE CSS SHOULD HAVE BEEN EXPENSED?

25 A. No. The basis for Public Counsel's opposition to the expensing of costs associated with
26 this project is twofold, (1) Public Counsel believes that the costs incurred by the Company

1 to develop this computer system should be capitalized and amortized over a period
2 representative of the usefulness or the service life of the system, and (2) It's the Public
3 Counsel's understanding that the project is not expected to be implemented until February
4 of 1999, thus the project was not "used and useful" in the provision of service to ratepayers
5 during the test period and should be accounted for similar to a construction work in
6 progress ("CWIP") investment.

7
8 Q. WHEN WILL THE DECISION BE MADE ON PROCEEDING WITH THE OTHER
9 PHASES OF CSS?

10 A. Company's response to Staff Data Request No.74 states, "Probably by 10/30/98."
11

12 Q. PLEASE EXPLAIN THE EMPRV PROJECT AND THE COMPANY'S METHOD OF
13 ACCOUNTING FOR ITS COSTS.

14 A. Company's response to Staff Data Request No. 70 states:
15

16 The EMPRV Power Plant Maintenance System identified in DR #19
17 (EMPRV) is a computer software package that helps Ameren efficiently
18 manage its power plant facilities. EMPRV supports company procedures
19 and practices for the maintenance of equipment in the power plant, as well
20 as functions related to the maintenance of that equipment.

21
22 And:

23
24 For the 12 months ending June 30, 1998, the cost incurred on this project
25 was \$726,569. None of these costs were capitalized; the entire amount was
26 expensed. \$530,395 was charged to AmerenUE and \$196,174 to
27 AmerenCIPS.

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The Company's response to Staff Data Request No. 71 states, "These cost were charged to a service request and allocated between UE and CIPS based on nameplate generating capacity (73% UE and 27% CIPS)." Furthermore, the Company's response to Staff DR No. 44 states that the total cost of this system is expected to be \$4.5M.

Q. DOES PUBLIC COUNSEL BELIEVE THAT THE COSTS COMPANY INCURRED FOR THIS PROJECT SHOULD HAVE BEEN EXPENSED?

A. No. Public Counsel believes that the costs incurred by the Company for this project should be capitalized and amortized over a period representative of the usefulness or the service life of the system.

Q. PLEASE EXPLAIN THE AMRAPS PROJECT AND THE COMPANY'S METHOD OF ACCOUNTING FOR ITS COSTS.

A. The AMRAPS project consists of a new Human Resources System which integrates CIPS and UE personnel data, payroll data, etc., into one system. Company's response to Staff Data Request No. 45 states:

The overall objective of the AMRAPS project is the installation of an integrated human resources management system that supports the current and future needs of Ameren. The system will support the organization by reducing annual operating expenses, streamlining processes, and supporting the enhancement of employee services.

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According to the Company's response to Staff DR No. 44 and 69, the total cost of this system is expected to be \$12.2M. During the period, 7/1/97 - 11/1/97, the Company incurred total costs of \$2,555,000 for this project and it charged the entire amount to operating expense. The total AMRAPS expensed for the third credit period for AmerenUE Missouri Electric was \$1,770,283. (Source: Staff Data Request No 78)

Q. DOES PUBLIC COUNSEL BELIEVE THAT THE COSTS COMPANY INCURRED TO DEVELOP THE AMRAPS SHOULD HAVE BEEN EXPENSED?

A. No. Public Counsel believes that the costs incurred by the Company for this project should be capitalized and amortized over a period representative of the usefulness or the service life of the system.

Q. HOW ARE THE COSTS FOR THE PROJECTS CHARGED BY THE COMPANY TO CAPITAL VERSES EXPENSE?

A. According to the Company's response to Staff DR No. 19, "Labor, consulting, and software costs are charged to O&M accounts. Hardware costs are charged to capital accounts." Furthermore, Company's response to Staff Data Request No. 12 states:

The determination between capital and expense is based upon the "Property Unit Catalog". Generally, the Company's current policy for computer related expenditures is initial purchases and replacements of computer hardware, LAN/WAN equipment, servers, personal computers (monitors, CPU's, external drives or devices), printers, plotters, etc., are considered

1 capital expenditures. Purchases of software and hardware enhancements
2 (memory boards, internal modems, internal disk drives, internal tape drives,
3 etc.) are expenses as incurred. The design, development, and installation of
4 information systems software are also expensed as incurred.
5

6 Q. DOES THE PUBLIC COUNSEL AGREE WITH THE COMPANY'S METHODOLOGY
7 OF ACCOUNTING FOR THE PROJECTS COSTS?

8 A. No. As I stated earlier, it is not appropriate for regulatory ratemaking purposes, for the
9 Company to expense certain costs associated with these projects, therefore, the costs
10 expensed should be removed from the determination of the earnings achieved during the
11 third year of the EARP.
12

13 Q. HAS THE PUBLIC COUNSEL AUDITED THE COSTS INCURRED FOR THE ABOVE
14 SOFTWARE PROJECTS?

15 A. No. Public Counsel has attempted to obtain access to the support for the costs described by
16 the Company, however, at this time Company has not made the support data available for
17 review. For example, Public Counsel Data Request No. 1019 requested:

- 18
19 1. A listing and detailed description/explanation of all CIS/MIS
20 projects worked on during the 12 months ended June 1998 whose
21 total costs have or will exceed \$100,000 (Y2K, etc.).
22
23 2. For each project, separate and identify the costs per expense category
24 of preliminary stage, development stage, implementation stage,
25 hardware costs, software costs, consultant costs (by specific
26 consultant), and in-house personnel costs.
27
28 3. Where applicable provide copies of each project's "RFP", and all
29 consultant contracts and correspondence with consultants.

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Company's response stated Public Counsel should reference MPSC Staff Data Requests: 19, 35, 44, 45, 46, and 51 for the answers to the questions asked. Public Counsel reviewed the referenced data requests and found that they did not provide all the information requested in OPC Data Request No. 1019.

Public Counsel subsequently followed-up on OPC Data Request No. 1019 with OPC Data Request No. 1044 which stated that Public Counsel did not believe that the response to Data Request No. 1019 was complete. Company responded that for items #1 and #2 of Public Counsel Data Request No. 1019, it believes that the data requested is included in the DR responses referenced. However, with regard to item #3 of the request, Company stated:

The information requested in #3, although irrelevant to any legitimate issue in this monitoring docket, is available. However, it is voluminous and can be viewed at the Company's offices.

Q. WAS THE INFORMATION REQUESTED BY ITEM #3 SUBSEQUENTLY REVIEWED BY PUBLIC COUNSEL?

A. Yes.

Q. WERE ANY OF THE DOCUMENTS YOU REVIEWED VOLUMINOUS?

A. No. Several separate contracts and documents were provided for Public Counsel's review,

1 however, the total of all the pages of all the contracts and documents reviewed was only
2 153 pages.

3
4 Q. WHAT IS VOLUMIOUS ACCORDING TO THE COMMISSION?

5 A. It is my understanding, that according to the "Standard Protective Order" utilized by the
6 Commission, if a response to a discovery request requires the duplication of voluminous
7 material or material not easily copied because of its binding or size, the furnishing party
8 may require the voluminous material be reviewed on its own premises. Voluminous
9 material shall mean a single document, book or paper which consists of more than 150
10 pages.

11
12 Q. WHEN WAS PUBLIC COUNSEL DATA REQUEST NO. 1019 SENT TO THE
13 COMPANY?

14 A. September 24, 1998.

15
16 Q. WHEN WAS PUBLIC COUNSEL DATA REQUEST NO. 1044 SENT TO THE
17 COMPANY?

18 A. November 13, 1998.

19
20 Q. WHEN WAS ACCESS PROVIDED TO THE CONTRACTS?

21 A. December 22, 1998.

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Q. WHEN WERE THE CONTRACTS ACTUALLY DELIVERED INTO PUBLIC COUNSEL'S POSSESSION?

A. February 1, 1999.

Q. HAS THE PUBLIC COUNSEL ACTUALLY REVIEWED ANY INVOICES PERTAINING TO THE COSTS IDENTIFIED BY THE COMPANY.

A. No, they have not been made available by the Company.

Q. PLEASE SUMMARIZE THE PUBLIC COUNSEL'S POSITION ON THE SOFTWARE PROJECTS ISSUE.

A. Public Counsel believes that the costs associated with these projects should be capitalized and amortized over a period of years comparable to the usefulness and/or service life of the systems. Public Counsel requests that the Commission order the Company to recalculate its Earnings Report, and sharing for the third year of the EARP, reflecting the capitalization and amortization of all the costs for the projects described above.

Q. WHAT IS THE MERGER AND ACQUISITION AMORTIZATION ISSUE?

A. The Public Counsel believes that the Company has calculated an incorrect amount for the annual merger and acquisition amortization included in its Earnings Report for the third year of the EARP.

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Q. PLEASE EXPLAIN THE MERGER AND ACQUISTION AMORTIZATION.

A. On page 5 of the Stipulation and Agreement, Case No. EM-96-149, it states:

Actual and prudent and reasonable merger transaction and transition costs (estimated to be \$71.5 million) shall be amortized over ten years beginning the date the merger closes. The annual amortization of merger transaction and transition costs will be the lesser of: (1) the Missouri jurisdictional portion of the total Ameren amount of \$7.2 million; or (2) the Missouri jurisdictional portion of the total Ameren unamortized amount of actual merger transaction and transition costs incurred to date. No rate base treatment of the unamortized costs will be included in the determination of rate base for any regulatory purposes in Missouri.

It's my understanding that from 1995 to 1997 merger costs were expensed for book purposes and reversed out for tax purposes as merger costs were considered non-deductible for tax purposes. Upon approval of the merger on December 31, 1997, the MoPSC issued Order EM-96-149 stating that:

Actual prudent and reasonable merger transaction and transition costs (estimated to be \$71.5 million) shall be amortized over ten years beginning the date the merger closes.

The Company included both Missouri transaction and transition merger costs as a regulatory asset. UE's Missouri transaction and transition merger costs equal to \$28 million incurred since 1995 were reversed from expense and recorded as a regulatory asset

1 in December 1997.

2
3 The Company's methodology for booking the costs is further substantiated by a document
4 it provided to Public Counsel on or about December 14, 1998. According to the
5 Company's "Significant Points Review" document of December 31, 1997, page 6:

6
7 Costs incurred by Ameren/UE in relation to the merger agreement were
8 expensed from 1995 through November 1997. Per APB 16, "Business
9 Combinations", all expenses incurred in effecting a business combination
10 accounted for by the pooling of interest method should be deducted in
11 determining net income in the period in which the expenses are incurred.
12 Upon approval of the merger on December 31, 1997, the MoPSC issued
13 Order EM-96-149 stating that "Actual prudent and reasonable merger
14 transaction and transition costs (estimated to be \$71.5 million) shall be
15 amortized over ten years beginning the date the merger closes." As such,
16 the Company included both Missouri transaction and transition merger
17 costs as a regulatory asset. UE's Missouri transaction and transition
18 merger costs equal to \$28 million incurred since 1995 were reversed from
19 expense and recorded as a regulatory asset in December 1997.
20
21

22 Q. PLEASE EXPLAIN THE COMPANY'S CALCULATION OF THE MERGER AND
23 ACQUISITION ANNUAL AMORTIZATION.

24 A. Company's response to OPC Data Request No. 1011 indicates that it has taken the position
25 that the annual amortization is \$7.2 million. Using this amount, the Missouri electric
26 portion, allocated on the O&M labor ratio for the 12 months ended 6/30/97, approximates
27 \$6,201,307 annually.
28

1 Q. WHAT AMOUNT HAS AMEREN/UE BEEN BOOKING, SINCE THE MERGER IN
2 JANUARY, FOR THE AMORTIZATION OF TRANSITION AND TRANSACTION
3 COSTS?

4 A. Company's response to Staff Data Request No. 31 states, "Since January, 1998, Ameren
5 UE has been booking \$517,776 - Mo. Electric & \$17,288 - Mo. Gas each month for the
6 amortization of merger transaction and transition costs." Therefore, for Missouri electric
7 operations, there are only six months of the monthly amortization booked for the third year
8 of the EARP, or approximately \$3,100,656 (i.e., \$517,776 times 6).

9
10 Q. WHAT IS THE CORRECT ANNUAL AMORTIZATION PER THE COMMISSION
11 ORDER IN CASE NO. EM-46-149?

12 A. The Public Counsel believes that, according to the terms of the Stipulation and Agreement,
13 the annual amortization should be the lesser of the \$7.2 million or the 10 year amortization
14 of the actual costs incurred to date. According to the Company's responses to Staff Data
15 Request Nos. 23 and 55, the actual transaction costs as of 6/30/98 are \$25,620,950, and the
16 revised estimate of the actual transition costs are \$41,000,000. Thus the total transaction
17 and transition costs equal \$66,620,950. Using this amount the Missouri electric portion,
18 based on the O&M labor of 86.13% for 12 the months ended 6/30/97 (source Staff Data
19 Request No. 31), approximates \$5,738,062 annually. However, as stated earlier, since
20 there should only be six months of the monthly amortization included in Earnings Report
21 for the third year of the EARP, the correct merger and acquisition amortization amount to

1 include in the Earnings Report is approximately \$2,869,031. The Company's position has
2 overstated expenses by approximately \$231,623 (i.e., \$3,100,656 less \$2,869,031).

3
4 Q. HAS THE PUBLIC COUNSEL BEEN ABLE TO VERIFY THE ACCURACY OF THE
5 TRANSACTION AND TRANSITION COSTS.

6 A. No. The Public Counsel has not verified the accuracy of the costs claimed by the
7 Company.

8
9 Q. PLEASE SUMMARIZE THIS ISSUE.

10 A. Public Counsel believes that the Company has incorrectly interpreted the Commission Order
11 in Case No. EM-46-149. The Order states that the merger costs are to be amortized over
12 ten years, and that the annual amortization shall consist of the lessor of \$7.2 million or
13 actual costs incurred to date. To Public Counsel's knowledge, the actual costs incurred to
14 date approximate the \$66,620,950 discussed earlier, therefore, the 10 year amortization of
15 the actual amount is less than the \$7.2 million recorded by the Company and should be
16 utilized to determine the correct annual amortization to include in the Earnings Report.
17 Adjusting for the Missouri jurisdictional portion yields that the Company has overstated the
18 annual amortization expense for this issue by approximately \$231,623. The Public Counsel
19 recommends that the Commission reduce the Company's reported operating expenses by
20 this amount.
21

1 Q. WHAT IS THE LEGAL DEPARTMENT LOBBYING EXPENSE ISSUE?

2 During the course of the Public Counsel's investigation, it became apparent that the
3 Company may not have been as reasonable and diligent as they should have been in
4 removing all of its lobbying expense according to the terms of the Stipulation and
5 Agreement of Case No. EO-96-14. Item 2(c) of Attachment C to the Stipulation and
6 Agreement of Case No. EO-96-14 states that:

7
8 The Company will make the following income statement adjustments
9 which have been traditionally made in UE rate proceedings: ...Exclude
10 lobbying expenses.
11
12

13 Q. DID THE PUBLIC COUNSEL SEEK TO DETERMINE IF ALL LOBBYING EXPENSE
14 HAD BEEN REMOVED FROM THE DETERMINATION OF THE COMPANY
15 EARNINGS REPORT/

16 A. Yes. Public Counsel issued Data Request No. 1017 which asked whether the Company had
17 excluded all its lobbying expenses in the determination of the current year sharing credit.

18 Company's response stated:
19

20 All lobbying expenses have been excluded in the determination of the
21 current year sharing credit.
22
23

24 In support of its statement, the Company provided a "Millennium Online Print" query for
25 charges to the Other Income and Deductions Accounts 426-047, 426-048, and 426-049 for

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1 the thirteen months ending June 1998. Account 426 includes charges for expenditures for
2 certain civic, political and related activities of the Company's. Charges to Accounts 426-
3 047, 426-048, and 426-049 represent expenses other than advertising, the State political
4 action committee, and the Federal political action committee, respectively.

5
6 Q. WAS COMPANY'S RESPONSE TO PUBLIC COUNSEL DATA REQUEST NO. 1017
7 AN ACCURATE RESPONSE?

8 A. It does not appear so. Even though the Company was adamant in its claim that it had
9 removed all lobbying expenses, Public Counsel discovered that the lobbying expenses
10 removed may not have included charges incurred by the Company's General Counsel's
11 Office.

12
13 Q. PLEASE CONTINUE.

14 A. In an attempt to clear-up what Public Counsel believed to be either a misunderstanding or
15 misrepresentation by the Company, Public Counsel issued Data Request No. 1043 which
16 asked:

17 Please explain whether or not the legal legislative/lobbying costs have
18 been removed from the current year sharing credit. Also, provide the
19 complete copies of the legal work orders A0387, A0393, AO386, and
20 AO392, and access to the support for work product recorded in these work
21 orders. Also, provide the complete legislative/lobbying reconciliation as
22 originally requested.

23
24
25 The Company's response stated:

Public Counsel DR did not ask about Legal Expenses. Any expense appropriately designated as lobbying has been excluded. The complete legislative/lobbying reconciliation, as originally requested was provided.

Q. WAS THIS RESPONSE FROM THE COMPANY ACCURATE?

A. It does not appear so. After Public Counsel filed a motion to compel, which included the two data requests just discussed, Company provided what it termed as the complete work orders. The "work orders" provided were A0386, A0387, A0392 and A0393. A0387 and A0393 are titled as "Legislative & Lobbying Activities for Ameren/UE" and "Legislative & Lobbying Activities for UE and CIPS", respectively. A0386 and A0392 are titled as "Regulatory Legal Work For Ameren/UE" and "Regulatory Legal Work For Ameren/UE & Ameren/CIPS", respectively. Each of the work orders includes a generalized description of the types of tasks to be charged to it, and a listing of the USOA accounts to which the charges are to be booked. For example:

<u>Work Order</u>	<u>%</u>	<u>Booking</u>	<u>%</u>	<u>Account</u>
A0386				
Service Co.	9%	Capitalized	100%	1 21 379
Service Co.	82%	Expense	94%	1 21 920
A0387				
Service Co.	9%	Capitalized	94%	1 21 379
Service Co.	82%	Expense	94%	1 21 920
A0392				
Service Co.	9%	Capitalized	100%	1 21 379

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1	Service Co.	77%	Expense	94%	1 21 920
2					
3	A0393				
4	Service Co.	9%	Capitalized	100%	1 21 379
5	Service Co.	77%	Expense	94%	1 21 920
6					
7					

8 The Service Co. percentage represents the percentage of a total cost that that is then
9 allocated to an Ameren Company affiliate (in this case UE's Missouri electric operations).
10 For example, if a \$100 charge was incurred for A0386, 9% of that charge would be booked
11 entirely (100%) to UE's Missouri electric operations Account 1-21-379 and 82% of the
12 \$100 would be booked 94% to UE's Missouri electric operations to Account 1-21-920. The
13 remaining dollars of the total \$100 are be booked to other Ameren affiliates. As you can
14 see from the above account allocation, the costs charged to UE Missouri electric operations
15 are booked to construction overhead Account 379 - Miscellaneous Construction
16 Expenditures, and expense Account 920 - Administrative and General Salaries, and not to
17 the below-the-line Account 426.

18
19 Q. WHERE DID PUBLIC COUNSEL LEARN OF THE WORK ORDERS EXISTENCE?

20 A. The work orders were identified in Company's response to MPSC Staff Data Request Nos.
21 17 and 41 which asked for copies of service requests and service requests for the General
22 Counsel's Office.

23
24 Q. IS IT THE PUBLIC COUNSEL'S BELIEF THAT SOME OF THE CHARGES RELATED

1 TO THE WORK ORDERS SHOULD BE DISALLOWED?

2 A. Yes. Public Counsel believes that a portion, if not all, of the charges booked through work
3 orders A0387 and A0393 which are titled as Legislative & Lobbying Activities for
4 Ameren/UE and Legislative & Lobbying Activities for UE and CIPS, respectively may
5 need to be removed as an expense from the Earnings Report. Furthermore, work orders
6 A0386 and A0392 which are titled as Regulatory Legal Work For Ameren/UE and
7 Regulatory Legal Work For Ameren/UE & Ameren/CIPS, respectively, may also contain
8 charges which should not appropriately be included as an expense in the Earnings Report.

9
10 Q. DOES PUBLIC COUNSEL KNOW WHAT THE AMOUNT TO DISALLOW SHOULD
11 BE?

12 A. No. The difficulties in obtaining detailed data from this Company has been quite
13 frustrating. As of the date that I am writing this testimony, I have not yet received the
14 information I need to review to determine the specific amount.

15
16 Q. WHEN DID PUBLIC COUNSEL FIRST REQUEST THE INFORMATION.

17 A. Public Counsel issued its first data request, OPC Data Request No. 1017, regarding
18 lobbying expenses on September 22, 1998.

19
20 Q. WHEN DID PUBLIC COUNSEL ISSUE ITS FIRST FOLLOWUP DATA REQUEST?

21 A. Public Counsel issued OPC Data Request No. 1043 regarding lobbying expenses on

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1 November 13, 1998.

2

3 Q. HAS THE COMPANY PROVIDED THE SUPPORT BEHIND THE WORK ORDERS
4 REQUESTED WITH YOUR DATA REQUEST NO. 1043?

5 A. No. Conversations with Company personnel indicated that access would be forthcoming,
6 however, as of the time this Direct Testimony was prepared, access to the information has
7 not been provided.

8

9 Q. HAS THE PUBLIC COUNSEL ISSUED ANOTHER DATA REQUEST ASKING THAT
10 IT BE PROVIDED ACCESS TO THE WORK ORDER SUPPORT?

11 A. Yes, a third data request, OPC Data Request No. 61, was issued by the Public Counsel on
12 or about February 16, 1999 asking again for access to the support data. The Company's
13 response to this data request has not yet been received.

14

15 Q. PLEASE SUMMARIZE THE PUBLIC COUNSEL'S POSITION ON THIS ISSUE.

16 A. The Public Counsel believes that the Company has not fully complied with Item 2(c) of
17 Attachment C of the Stipulation and Agreement of Case EO-96-14 regarding its mandate to
18 remove all lobbying expenses from the determination of the Earnings Report for the third
19 year of the EARP. Without the support behind the "work orders" described above, the
20 Commission should disallow all of the associated legal expense charged to them.

21

1 Q. WHAT IS THE DECOMMISSIONING DEPOSITS ISSUE?

2 The Company's Callaway Nuclear Plant decommissioning deposits due in 1997 were not
3 deposited into the decommissioning fund until 1998. During this time Company had sole
4 use of the monies and as such should fund the decommissioning fund or reimburse
5 ratepayers for the interest earned on the monies it had in its possession.

6
7 Q. WHY WERE THE DECOMMISSIONING DEPOSITS NOT MADE?

8 A. According to documents Company provided Public Counsel on December 15, 1998,
9 regarding Other Deferred Credits Decommissioning Provisions:

10
11 FY 97: Per discussion with Dave Wucher, Wayne Oelzen and Randy
12 Bittner, UE's IRS letter of ruling expired at the end of FY 96. This Letter
13 ruling is required in order for UE to make payments into the qualified trust
14 fund. As of 12/31/97, UE does not yet have a new letter ruling from the
15 IRS, so they are four payments, or one year, behind in funding. As a
16 result, the regulatory asset balance is approximately \$7 million less than
17 the liability balance. Considered adequate as expense should continue to
18 be recognized even though payments are not being made.
19
20

21 Q. WHAT PAYMENTS WERE NOT MADE?

22 A. Ultimately, according to Company's response to OPC Data Request No. 1008, the
23 following payments due in 1997 and 1998 were made beyond the Company's normal
24 timeframe for making the deposits:

25
26 Contribution For Quarter Ending Amount Actual Date Of Deposit

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1			
2	March 31, 1997	\$1,553,546	April 11, 1998
3	June 30, 1997	\$1,553,546	April 11, 1998
4	September 30, 1997	\$1,553,546	April 11, 1998
5	December 31, 1997	\$1,553,546	April 11, 1998
6	March 31, 1998	\$1,553,546	May 27, 1998
7			
8			

9 Q. DID THE COMPANY HAVE ACCESS TO THESE FUNDS DURING THE TIME THAT
10 THE PAYMENTS WERE NOT MADE?

11 A. It's my understanding that the Company had possession and control of the funds.

12
13 Q. SHOULD THE COMPANY BE ALLOWED TO KEEP ANY MONIES EARNED ON
14 THE AMOUNTS NOT DEPOSITED ON TIME?

15 A. No.

16
17 Q. DOES PUBLIC COUNSEL KNOW WHAT AMOUNT WAS EARNED BY THE
18 COMPANY DURING THE PERIOD THAT THE DECOMMISSIONING DEPOSITS
19 WERE LATE?

20 A. Based on information received from the Company, Public Counsel believes it is reasonable
21 to assume that had the decommissioning deposits been made on time the funds would have
22 earned approximately 9.25% annually. The Company's Securities And Exchange
23 Commission 10K Report for the fiscal year ended December 31, 1997, which was provided
24 in the Company's response to Staff Data Request No. 43, states on page 31:
25

1 Fund earnings are expected to average 9.25% annually through the date
2 of decommissioning.
3
4

5 Based on an annual return of 9.25%, Public Counsel has calculated that the return that
6 would have been earned on the late deposits had they been paid on time approximates.
7 \$349,218.
8

9 Q. PLEASE SUMMARIZE THE PUBLIC COUNSEL'S POSITION ON THIS ISSUE.

10 A. Public Counsel believes that the Company has had in its possession funds which were
11 intended for deposit into the Callaway Nuclear Plant decommissioning fund. Company's
12 possession of the funds resulted in it having access to a cost-free source of capital for the
13 period from when payments were normally due and the period the payments were actually
14 made. Public Counsel is recommending that the Commission order the Company to make
15 an additional deposit to the decommissioning fund, or reimburse customers, for an amount
16 equal to a calculation of the 9.25% expected annual return of the fund times the late
17 payments for the period that they were outstanding. The payment recommended
18 approximates \$349,218.
19

20 Q. WHAT IS THE PLANT HELD FOR FUTURE USE PROPERTY TAX EXPENSE
21 ISSUE?

22 8. Company removed Plant Held For Future Use from rate base, but allowed property taxes
23 on the PHFU to remain as an operating expense on the income statement for the current

1 sharing period. Company performed the same procedure in the first and second years of
2 the current EARP, but due to the parties' negotiation and ultimate stipulation of the sharing
3 credits for those two years, Public Counsel did not bring the issue to the Commission's
4 notice for a hearing. However, since we believe a hearing will be held in this case, Public
5 Counsel believes that the Commission should clarify the issue for the benefit of all parties
6 so that the property taxes on PHFU is removed as an expense in the results of third year of
7 the current EARP, and for all future years of the second EARP.

8
9 Q. WHAT IS THE AMOUNT OF THE ISSUE?

10 A. Pursuant to issuance of Public Counsel Data Request No. 1004 which requested:

11
12 Are taxes other than income taxes (i.e., real estate, property taxes, etc.)
13 associated with Plant Held For Future Use included in the pro forma
14 income statement and development of the sharing credit? If yes, what is
15 the value (amount) of each of these taxes? Please explain the company's
16 rationale for including these taxes in the determination of Missouri costs in
17 relation to company's agreement to exclude the associated PHFU from rate
18 base.

19
20
21 The Company responded:

22
23 The real estate taxes applicable to Future Use plant were estimated at
24 \$100,450 for the Year 1997. The taxes for the Future Use Plant are not
25 maintained separately in the tax records of the Company. They have to be
26 developed. Since the taxes on Future Use Plant are only about .125% of
27 the Total Missouri Property Taxes they have not been backed out by the
28 Company. The impact on Net Operating Income would only be about

1 \$61,820.
2
3

4 Q. WAS THE PUBLIC COUNSEL SURPRISED BY THE COMPANY'S RESPONSE TO
5 PUBLIC COUNSEL DATA REQUEST NO. 1004?

6 A. Yes, Public Counsel was puzzled as to why the Company has refused to remove the PHFU
7 property taxes from operating expense. In order to clarify our understanding of why the
8 Company did not remove the PHFU property taxes, Public Counsel issued another data
9 request. OPC Data Request No. 1040 asked:

10
11 Company's response to Public Counsel Data Request No. 1004 is vague,
12 confusing, and possibly non-responsive. The interrogatory requested an
13 explanation of the rationale for not removing PHFU real estate taxes,
14 however, your response states that the taxes are only .125% of total property
15 thus they have not been removed. Is the Commission to assume that your
16 refusal to remove the taxes is a materiality issue and nothing more? Please
17 answer the materiality allegation and clarify your response to OPC #1004.
18
19

20 The Company's response to Public Counsel Data Request No. 1040 stated:

21
22 The Company believes the answer to DR 1004 to be very clear. It is not
23 vague, confusing or non-responsive. The response stated, "Since the taxes
24 on the future Use Plant are only about .125% of the Total Missouri Property
25 Taxes they have not been backed out by the Company. The impact on Net
26 Operating Income would only be about \$61,820." This response already
27 addresses the "materiality" allegation.
28
29

30 Q. WHAT IS PLANT HELD FOR FUTURE USE?

1 A. Investments not currently used in the provision of utility service.

2
3 Q. WHY IS PLANT HELD FOR FUTURE USE NOT INCLUDED AS INVESTMENT?

4 A. The general rule is that:

5
6 The rate base on which a return may be earned is the amount of property
7 used and useful, at the time of the rate inquiry, in rendering a designated
8 utility service. (A.J.G. Priest, Principles of Public Utility Regulation
9 (1969), p. 139, Vol. 1)

10
11
12 This principle is certainly grounded in common sense. In dividing the responsibility for a
13 utility's operation between ratepayers and stockholders, regulators have traditionally
14 required that stockholders rather than ratepayers be required to bear the costs of any utility's
15 investment which is not used and useful to provide service to ratepayers.

16
17 In a recent discussion of the policy in State ex rel. Union Electric v. Public Service of the
18 State of Missouri, 765 S.W. 2d 618 (Mo. App. 1988), the Court of Appeals for the Western
19 District of Missouri endorsed the used and useful policy. The case involved Union
20 Electric's appeal of the Commission's denial of the costs of cancellation of its Callaway II
21 nuclear unit. The Commission ruled that the risk of cancellation should be borne by the
22 shareholder, since if it was not, the shareholders investment would be practically risk free.
23 The Court, in upholding the Commission's decision stated:

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1 The utility property upon which a rate of return can be earned must be
2 utilized to provide service to its customers. That is, it must be used and
3 useful. This used and useful concept provides a well-defined standard for
4 determining what properties of a utility can be included in its rate base.
5 Id. at 622.
6
7

8 Q. DIDN'T YOU STATE EARLIER THAT THE COMPANY HAS REMOVED ITS PHFU
9 INVESTMENT IN THE CALCULATION OF ITS EARNINGS FOR THE THIRD YEAR
10 OF THE EARP?

11 A. Yes, it did.

12
13 Q. ISN'T ALSO REASONABLE THAT SINCE PHFU IS NOT INCLUDED AS AN
14 INVESTMENT IN THE CALCULATION OF THE EARNINGS REPORT THAT ANY
15 EXPENSE ASSOCIATED WITH ITS MAINTENANCE SHOULD ALSO BE
16 REMOVED?

17 A. Yes, it is.

18
19 Q. DOES PUBLIC COUNSEL BELIEVE THE PHFU PROPERTY TAXES TO BE
20 IMMATERIAL?

21 A. No. If you assume that the annual PHFU property taxes for the three years of the original
22 EARP, and the three years of the subsequent EARP are approximately the same amount
23 annually, it is conceivable that the Company will include as an expense in the
24 determination of net operating income, over the course of the two EARPs, up to \$370,920

1 (i.e., 6 times \$61,820) of PHFU property tax expenses that should not be included. If this
2 amount is above the 14% earned return on common equity whereby customers receive
3 100% of the tax adjusted sharing it approximates \$602,040 (i.e., \$370,920 times tax gross-
4 up 1.6231) of sharing dollars over the course of the two EARP's that would be returned to
5 ratepayers. Though \$602,040 is not necessarily a fortune, it is money that should be shared
6 between the Company's customers and its shareholders.

7
8 Public Counsel is amazed at the Company's justification for not voluntarily removing the
9 PHFU property expenses from the net operating income calculation of the current year or
10 the prior two years of the first EARP. Company claims materiality is the reason that the
11 expense has not been removed, even though to do so would increase its net operating
12 income. The net operating income increase, were it to occur, would then be included in the
13 determination of the sharing between the Company and its customers. Instead, the
14 Company has chosen a method whereby it includes the property taxes as an expense in the
15 determination of net operating income, even though it is not appropriate or reasonable to do
16 so. In effect, the Company's actions allow it to keep all earnings associated with the
17 property taxes for itself. Company's justification for keeping the monies is that they are
18 immaterial, however, Public Counsel believes that, immaterial or not, it is not appropriate
19 regulatory accounting to classify the PHFU property taxes as an operating expense in the
20 third year EARP Earnings Report. Company's position is unjustified on this matter and
21 contrary to the public interest.

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Q. PLEASE SUMMARIZE THE PUBLIC COUNSEL'S POSITION ON THIS ISSUE.

A. Company has appropriately removed its Plant Held For Future Use investment from the calculation of its earnings for the third year of the EARP, however, property taxes associated with that plant have not been removed. Public Counsel requests that the Commission order the Company to remove the PHFU property taxes for the third year of the first EARP, and set the precedent for all years of the second EARP. The expense amount in question, according to the Company's response to Public Counsel Data Request No. 1040, is approximately \$61,820 unadjusted for the income tax gross-up.

Q. HAS THE PUBLIC COUNSEL MET WITH ANY DIFFICULTIES IN ITS INVESTIGATION OF THE COMPANY'S EARNINGS CLAIMS?

A. Yes. Public Counsel has encountered significant resistance and delays to its discovery efforts during the investigation and verification of the Earnings Report for the year in question (July 97 - June 98). The discovery problems have hampered Public Counsel's ability to verify the accuracy of the Earnings Report in this matter and has hindered the consumers ability to receive their rightful share of any overearnings. Only Ameren/UE benefits from delays in this matter because no interest is being accrued on the third year sharing credits nor the permanent rate reduction which was to commence on September 1, 1998.

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1 Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

2 A. Yes, it does.

**CASE PARTICIPATION
OF
TED ROBERTSON**

Company Name	Case No.
Missouri Public Service Company	GR-90-198
United Telephone Company of Missouri	TR-90-273
Choctaw Telephone Company	TR-91-86
Missouri Cities Water Company	WR-91-172
United Cities Gas Company	GR-91-249
St. Louis County Water Company	WR-91-361
Missouri Cities Water Company	WR-92-207
Imperial Utility Corporation	SR-92-290
Expanded Calling Scopes	TO-92-306
United Cities Gas Company	GR-93-47
Missouri Public Service Company	GR-93-172
Southwestern Bell Telephone Company	TO-93-192
Missouri-American Water Company	WR-93-212
Southwestern Bell Telephone Company	TC-93-224
Imperial Utility Corporation	SR-94-16
St. Joseph Light & Power Company	ER-94-163
Raytown Water Company	WR-94-211
Capital City Water Company	WR-94-297
Raytown Water Company	WR-94-300
St. Louis County Water Company	WR-95-145
United Cities Gas Company	GR-95-160
Missouri-American Water Company	WR-95-205
Laclede Gas Company	GR-96-193
Imperial Utility Corporation	SC-96-427
Missouri Gas Energy	GR-96-285
Missouri-American Water Company	WR-97-237
St. Louis County Water Company	WR-97-382
Union Electric Company	GR-97-393
Missouri Gas Energy	GR-98-140
Laclede Gas Company	GR-98-374
Union Electric Company	EO-96-14
Union Electric Company	EM-96-149