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Witness: Thomas G. Beerman
Sponsoring Party: Union Electric Company
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Case No.: EO-2002-351
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MISSOURI PUBLIC SERVICE COMMISSION

CASE NO. EO-2002-351

SURREBUTTAL TESTIMONY

OF

THOMAS G. BEERMAN

ON

BEHALF OF

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

**St. Louis, Missouri
September, 2002**

Application of Union Electric Company
for Permission and Authority to Construct,
Operate, Own and Maintain a 345 kilovolt
Transmission Line in Maries, Osage and
Pulaski Counties, Missouri
("Callaway-Franks Line")

STATE OF MISSOURI)
) ss
COUNTY OF ST. LOUIS)

16386

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Q. Please state your name and business address.

A. My name is Thomas G. Beerman. My business address is One Ameren Plaza, Chouteau Avenue, St. Louis, Missouri 63166-6149.

Q. Are you the same Thomas G. Beerman that filed Direct Testimony in this
ding?

A. Yes, I am.

Q. What is the purpose of your Surrebuttal Testimony in this proceeding?

A. I will respond to the testimony submitted by the Concerned Citizens of Family and Heritage. In particular, I will respond to their concerns as to how AmerenUE will in the right of way (ROW) for the proposed line.

I. RESPONSE TO MR. MCDANIEL

Q. Please respond to Mr. McDaniel.

A. I would like to respond to three points mentioned in Mr. McDaniel's testimony. First, he contended that landowners should be held harmless for damage to AmerenUE facilities within the ROW. This item will be addressed by AmerenUE's attorneys. Second, he contended that property owners should be indemnified against all injuries to "anyone in and on AmerenUE's right of way". This will also be addressed by the Company's attorneys, but I would offer these observations. Contractors who would work for AmerenUE on the right of way are required to carry liability and

1 personal injury insurance. It has been my experience that if an employee is injured in the act
2 of performing their job they have not held the property owner liable for any damages.
3 Normally they would pursue claims through their employer or through AmerenUE. I cannot
4 make a blanket statement that property owners would be held harmless for anyone injured
5 while on the right of way. I believe this is an issue that would be handled through the courts.
6 Third, on a similar issue, Mr. McDaniel seeks clarification on a scenario where the property
7 owner damages his/her equipment on the right of way. Mr. McDaniel concluded that
8 AmerenUE or its agents should be held liable for these damages. As before, the Company's
9 attorneys will address this, but I offer the following. I would expect that if AmerenUE or a
10 contractor working for AmerenUE were to be found negligent in the performance of their
11 work then they would compensate the injured party. I cannot make a blanket statement that
12 if every time a property owner damages a piece of equipment while working within the right
13 of way that AmerenUE will compensate that property owner for damages. Every such
14 incident would have to be investigated separately to determine who was at fault and to
15 determine other relevant facts.

16 **II. RESPONSE TO OTHER WITNESSES**

17 **A. CHEMICAL APPLICATIONS**

18 **Q. Several members of Concerned Citizens of Family Farms and Heritage**
19 **have expressed concern on the use of herbicides on the right of way. Please respond.**

20 **A.** In my testimony on July 11, 2002, I stated that AmerenUE would not apply
21 herbicides to a property if a landowner said they did not want herbicides applied. This is still
22 our position. On properties where herbicide use is granted contractors are required by their
23 contract with AmerenUE, and also by the law (Missouri Pesticide Use Act), to apply

herbicides as per label instructions. We strictly monitor a contractor's compliance with our specifications and we penalize a contractor for non-compliance.

B. DESTRUCTION OF WILDLIFE HABITAT.

Q. Several members of Concerned Citizens of Family Farms and Heritage have expressed concern on the issue of destruction of habitat and the effects on wildlife. Please respond.

A. I agree that the addition of this right of way would change the existing habitat. However, studies have shown that this change offers habitat diversity, which can lead to an increase in wildlife population numbers. Recently, Professors from Purdue University have been conducting studies on vegetation management practices within utility rights of way.¹ Their studies conclude that when a zoned approach to vegetation management is implemented the resulting habitat diversity actually benefits wildlife. A diverse habitat establishes greater nesting sites, and also more food sources and protective cover for many species including mammals, reptiles, birds and plants.

As I mentioned in my Direct Testimony, AmerenUE follows a zoned approach to vegetation management within its right of way. This approach is patterned after the research done by Professors from Purdue. We have been successful. In 2001 we received a copy of the results of a joint study between AmerenUE and the World Bird Sanctuary on a nest box

¹ W. C. Bramble & W. R. Byrnes, "Impact of brush control on wildlife food and cover", Proceedings of the John S. Wright Forestry Conference, Purdue University, (1976); "Evaluation of the wildlife habitat values of rights-of-way", Journal of Wildlife Management, Volume 43, pages 642-9 (1979); W.C. Bramble, W. R. Byrnes, and R. J. Hutnik, "Effects of a special technique for right-of-way maintenance on deer habitat", Journal of Arboriculture, Volume 10, pages 13-20 (1985); W. C. Bramble, R. H. Yahner, W. R. Byrnes, and S. A. Liscinsky, "Small mammals in plant cover types on an electric transmission rights-of-way", Journal of Arboriculture, Volume 18(6), pages 316-21 (1992); W. C. Bramble, W. R. Byrnes, and R. J. Hutnik, "Nesting of breeding birds on the utility rights-of-way" Journal of Arboriculture, Volume 20(3), pages 124-28 (1994); R. H. Yahner, W. C. Bramble and W. R. Byrnes, "Effect of vegetation maintenance of an electric transmission right-of-way on reptile and amphibian populations," Journal of Arboriculture, Volume 27(1), pages 24-28 (2001).

1 monitoring program along a 250-foot wide, 22-mile right of way in western St. Louis County
2 and eastern Franklin County, Missouri. The program began in 1995 and continues to this
3 day. The results of the study were encouraging. Since 1995 over 1,800 songbirds have
4 hatched in the nest boxes provided by AmerenUE. The conclusions reached by the World
5 Bird Sanctuary were as follows: “The decline of songbird populations across the United
6 States can be attributed to several causes, one of the most of which is habitat loss. While
7 wholesale habitat restoration is problematic, focused and directed programs can have a
8 tremendous impact. Nest box programs such as AmerenUE’s are vital to the future of native,
9 cavity-nesting songbirds not only for the nesting opportunities it provides but also for the
10 long term data generated by the study. It is this data when compiled with similar nesting data
11 from throughout the United States, that will provide the information needed to undertake
12 further habitat modification and preservation.”²

13 **C. EROSION WITHIN THE RIGHT OF WAY AND GATES.**

14 **Q. Several Intervenors expressed concern about erosion. Please respond.**

15 A. As I mentioned in my July 11th testimony, erosion is a concern for AmerenUE
16 as well as property owners. We make every effort to use vegetation management practices
17 that do not increase the incidents of erosion. Several property owners expressed a desire to
18 see tree stumps removed upon initial clearing. The removal of the tree stumps and the
19 attached root system prior to the establishment of additional vegetative cover within the right
20 of way could lead to increased erosion within the right of way. I agree with property owners
21 that every effort should be made to cut existing stumps as low as possible and to not leave
22 stumps in a condition that could damage equipment. The root systems of the cut trees will
23 help hold soil in place until other vegetative cover can establish itself. Over time the root

² Simon Davies, Director of Development, Wild Bird Sanctuary, P.O. Box 270270, St. Louis, MO 63127.

1 systems of the cut trees will decay increasing the amount of organic material in the soil. This
2 will improve the soil quality so that replacement vegetation can thrive. While this does not
3 occur instantaneously it is a sound vegetation management practice.

4 **Q. Several intervenors expressed concerns about existing gates or new gates**
5 **which AmerenUE might install. Please respond.**

6 A. AmerenUE does currently furnish gates for installation within the right of
7 way. AmerenUE or its contractor will install the gate and maintain it. There are other
8 options available to property owners. We have at time furnished the gate to the property
9 owner and compensated them for time spent on installation. The issue of whether or not to
10 place a gate on a property would be discussed with individual property owners. I mentioned
11 in my July 11th testimony that Ameren audits contractor performance when working on
12 Ameren right of ways. The contractors have every incentive to treat individual properties
13 with respect. If instances of complaints occur the contractor is penalized. It is not the intent
14 of AmerenUE or the contractors we hire intent to disregard property owners' requests.

15 **D. LEVEL OF ACTIVITY ON PROPERTIES FOR VEGETATION**
16 **MANAGEMENT MAINTENANCE**

17 **Q. Some of the Intervenor expressed concerns about the level of commercial**
18 **activity on their properties as a result of the proposed line. Please respond concerning**
19 **the level of vegetation management activities that the Company would perform.**

20 A. We would expect to be on the property on an infrequent basis, especially once
21 the brush and vegetation is initially brought under control. We would patrol the right of way
22 annually. Patrols are done via a helicopter and by walking or driving into the right of way
23 where practical. Annual patrols are done to identify potential hazards to the line. Examples

1 would be dead trees, storm damaged trees and tall brush. Typically when a right of way is
2 initially cleared and brush is brought under control we would not have to do any vegetation
3 management work for 3 to 4 years. The frequency of work would depend upon the
4 vegetation management plan used on each individual property. Ameren's goal would be to
5 have the right of way side trees on a 10-year trim cycle and to have the brush within the wire
6 zone on a 3-year mowing cycle or a
7 8-year selective herbicide application cycle. If hazard trees are identified they are addressed
8 immediately.

9 **Q. Does this conclude your Surrebuttal Testimony?**

10 **A.** Yes, it does.