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Clause

Witness: Lynn M. Barnes

Type of Exhibit: Surrebuttal Testimony

Case No.: EO-2010-0255

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MISSOURI PUBLIC SERVICE COMMISSION

CASE NO. EO-2010-0255

SURREBUTTAL TESTIMONY

OF

LYNN M. BARNES

ON

BEHALF OF

UNION ELECTRIC COMPANY

d/b/a Ameren Missouri

**St. Louis, Missouri
December, 2010**

Ameren Exhibit No. 4
Date 1-10-11 Reporter Jenni
File No. EO-2010-0255

1 **SURREBUTTAL TESTIMONY**

2 **OF**

3 **LYNN M. BARNES**

4
5 **CASE NO. EO-2010-0255**

6
7 **Q. Please state your name and business address.**

8 A: My name is Lynn M. Barnes. My business address is One Ameren Plaza,
9 1901 Chouteau Avenue, St. Louis, Missouri.

10 **Q. Are you the same Lynn M. Barnes who filed direct testimony in this**
11 **case?**

12 A: Yes, I am.

13 **Q. What is the purpose of your surrebuttal testimony in this proceeding?**

14 A. The purpose of my surrebuttal testimony is to provide clarification
15 regarding the magnitude of dollars relating to the disputed contracts at issue in this case
16 and to respond to certain points in the testimony of Missouri Public Service Commission
17 Staff ("Staff") witness Dana A. Eaves and Missouri Industrial Energy Consumers
18 ("MIEC") witness Henry Fayne.

19 **Q. On page 2 of Mr. Eaves' direct/rebuttal testimony he presents a**
20 **revised calculation of the amount in dispute in this proceeding of \$17,169,838. Is**
21 **Mr. Eaves' revised calculation correct?**

22 A. Yes. The \$17,169,838 represents the proposed refund amount for the two
23 accumulation periods that are the subject of the current prudence review proceeding.
24 However, the AEP and Wabash contracts in dispute actually affected four accumulation

1 periods due to the duration of the contracts. As a result, if the Staff's proposed
2 reclassification of the AEP and Wabash contracts is adopted, the total impact of this
3 reclassification on Ameren Missouri over all four accumulation periods would be
4 approximately \$42,036,723.

5 **Q. What would the impact be on Ameren Missouri if it is required to**
6 **refund approximately \$42 million as a result of the proposed reclassification?**

7 A. If these contracts are reclassified and Ameren Missouri has to refund
8 approximately \$42 million, that will mean that the Company will fail to recover
9 approximately \$42 million of its legitimate costs for the four accumulation periods
10 affected by these contracts. This amount represents nearly 8.5% of Ameren Missouri's
11 net income for the period March 2009-May 2010. If Ameren Missouri is required to
12 refund this amount, the Company will suffer a very significant adverse financial impact.

13 **Q. On page 8 of Mr. Eaves' testimony, he states that loss of customer**
14 **load is part of the risk included in shareholders' return on equity ("ROE"). Do you**
15 **agree with this statement?**

16 A. No, I do not. A utility's ROE compensates it for ordinary risks, such as
17 the normal fluctuations in customer load between rate cases. However, as the energy
18 associated with Noranda's loss of load represented 4.4% of Ameren Missouri's retail
19 customer load and approximately 4% of the base rate revenue requirement from which
20 rates in the case were developed, I believe that the authorized ROE approved by the
21 Commission for Ameren Missouri did not anticipate an extraordinary loss of load and
22 associated revenue of this magnitude. To provide some perspective on the magnitude of
23 the Noranda load loss, when Ameren Missouri lost the load from the Chrysler

1 Automotive Plant, its second largest customer at the time, the impact was only 0.7% of
2 customer load and approximately 0.6% of base rate revenues. The loss of load to
3 Noranda was more than 6 times greater, and it is by far the largest loss of load to a single
4 customer Ameren Missouri has ever experienced.

5 Moreover, it is significant that the loss of the Noranda load was attributable to an
6 ice storm, and not just any ice storm. The ice storm of 2009 was the most severe ice
7 storm ever to hit Ameren Missouri's system. The ice storm was so severe that it
8 damaged every electric pole in the areas affected, and left many customers without power
9 for weeks. Ameren Missouri's ROE does compensate it for the normal ups and downs of
10 load increases and decreases between rate cases. But it does not compensate the
11 Company for the risk of an extraordinary, catastrophic event of this magnitude caused by
12 an act of God.

13 **Q. On page 14 of his testimony, Mr. Eaves indicates that the Staff's**
14 **proposed adjustment has nothing to do with picking winners or losers or creating**
15 **windfalls. Isn't that in fact what will happen if the Staff prevails?**

16 **A. Yes.** While the Staff may not intend for its actions to create winners and
17 losers, nonetheless that in fact is what will happen if the Staff's position prevails. If these
18 contracts are reclassified, Ameren Missouri will lose the ability to recover approximately
19 \$42 million of its costs, and customers will reap a \$42 million windfall. Noranda alone
20 will "win" approximately \$4 million of this total, for a period when it was only taking
21 limited service from Ameren Missouri.

22 **Q. Finally on pages 14 and 15 of his testimony, Mr. Eaves disagrees with**
23 **the assertion in your direct testimony that the result of Ameren Missouri's actions**

1 **was that customers were in the same position as if the ice storm hadn't occurred,**
2 **since customers must pay for the storm restoration costs. Please comment on Mr.**
3 **Eaves' assertion.**

4 A. Certainly. It is true that prudently incurred restoration costs from the 2009
5 ice storm were reflected in Ameren Missouri's rates set in Case No. ER-2010-0036, in
6 accordance with the standard treatment for storm restoration costs. However, reflecting
7 recovery of storm restoration costs in customer rates is a completely separate issue and is
8 not relevant to the dispute in this prudence review. The fuel adjustment clause ("FAC")
9 is only designed to allow recovery of fuel and purchased power costs and has nothing to
10 do with the Company's ability to recover costs relating to storm restoration. What I
11 meant by the statement Mr. Eaves cites from my direct testimony is that Ameren
12 Missouri's actions entering into long-term partial requirements contracts with AEP and
13 Wabash kept the Company and its customers whole from the standpoint of net fuel costs
14 tracked in the FAC. On the other hand, Staff's reclassification of these contracts, if
15 approved, will result in the Company's inability to recover approximately \$42 million of
16 its legitimate costs incurred during the accumulation periods affected by the contracts,
17 while resulting in a windfall of \$42 million for customers during that period, solely as a
18 consequence of the ice storm and Noranda's loss of load.

19 Q. **On page 5 of his direct testimony, MIEC witness Henry Fayne**
20 **suggests that Ameren Missouri's position in this case is just an attempt to**
21 **"circumvent" the Commission's Order on Rehearing in Case No. ER-2008-0318, in**
22 **which it rejected Ameren Missouri's request to modify its FAC tariff. Is Mr. Fayne**
23 **correct?**

1 A. No, Mr. Fayne is not correct. The Commission denied Ameren Missouri's
2 application for rehearing in Case No. ER-2008-0318 because: (1) the Commission was
3 unwilling to modify the terms of a stipulation and agreement relating to Ameren
4 Missouri's FAC without first holding a hearing, and (2) the Commission concluded there
5 was not time for such a hearing before the operation of law date in that case. In the
6 current case, Ameren Missouri is following the letter of the tariff that was approved in
7 Case No. ER-2008-0318 because that tariff specifically excludes long-term partial
8 requirements sales, such as those made under the AEP and Wabash requirements
9 contracts, from factor OSSR. Just as importantly, excluding sales made under those
10 contracts also satisfies the spirit of the tariff because it permits Ameren Missouri to
11 recover its costs, no more and no less, and have a sufficient opportunity to earn a fair
12 return on equity.

13 **Q. Is the interpretation of Ameren Missouri's FAC tariff that is being**
14 **urged by Staff and the intervenors in this case consistent with the specific language**
15 **of that tariff or, more generally, of the overall purpose of an FAC?**

16 A. No. The interpretation of Ameren Missouri's FAC tariff that is being
17 urged by both Staff and the intervenors in this case is not consistent with the specific
18 language of the tariff at issue in this case or with the overall purpose of an FAC.

19 The surrebuttal testimonies of Ameren Missouri's witnesses Jaime Haro, Gary
20 Weiss, and Steven Wills establish that the phrase "long-term full or partial requirements
21 sales" as used in Ameren Missouri's FAC was never intended to be interpreted using
22 obscure reporting instructions buried in the FERC's Form 1 report. Yet that is precisely
23 the interpretation that Staff and the intervenors urge the Commission to adopt for the

1 accumulation period at issue in this case and for the other accumulation periods that will
2 be affected by the Commission's decision here. If the Commission adopts that
3 interpretation, the very objective for which the FAC was created in the first place will be
4 frustrated: to allow the Company to timely collect the actual cost of fuel and purchased
5 power used to provide service to its customers.

6 Although I am not a lawyer, I believe the interpretation of the tariff language
7 being urged by Staff and the intervenors may also be unlawful because it violates one of
8 the key requirements of the statute that authorizes the Commission to approve FACs for
9 electric utilities in Missouri. I am advised by counsel that the statute requires that any
10 FAC approved by the Commission must be "reasonably designed to provide a utility with
11 a sufficient opportunity to earn a fair return on equity." If that is a requirement and if the
12 Commission adopts the extreme interpretation of Ameren Missouri's FAC being urged
13 by Staff and the intervenors in this case, then the FAC approved by the Commission in
14 Case No. ER-2008-0318 fails to meet that standard because it will deny Ameren Missouri
15 the right to recover more than \$42 million of prudently incurred fuel and purchased
16 power costs and, as a consequence, will deny the company a sufficient opportunity to
17 earn a fair return on equity.

18 It doesn't make sense to me that the Legislature or this Commission would have
19 intended for an FAC to operate in a manner that failed to recover \$42 million in prudently
20 incurred fuel and purchased power costs. But that would be the consequence of the
21 Commission adopting the interpretation of Ameren Missouri's FAC being urged here by
22 Staff and the intervenors.

Surrebuttal Testimony of
Lynn M. Barnes

1 **Q. Does this conclude your surrebuttal testimony?**

2 **A. Yes, it does.**

