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EXHIBIT

Exhibit No.:	302 NP
Issue(s):	Class Cost of Service/ Rate Design/ DSM Cost Recovery
Witness/Type of Exhibit:	Kind/Rebuttal
Sponsoring Party:	Public Counsel
Case No.:	ER-2010-0036

REBUTTAL TESTIMONY

OF

RYAN KIND

Submitted on Behalf of
the Office of the Public Counsel

UNION ELECTRIC COMPANY D/B/A AMERENUE

Case No. ER-2010-0036

** ________________ **

Denotes Highly Confidential Information that has been Redacted

OPC Exhibit No. 302NP
Date 3-26-10 Reporter PF
File No. ER-2010-0036

February 11, 2010

NP

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of Union Electric Company	)	
d/b/a AmerenUE for Authority to File	)	
Tariffs Increasing Rates for Electric	)	**Case No. ER-2010-0036**
Service Provided to Customers in the	)	
Company's Missouri Service Area.	)	

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 rebuttal 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 11th day of February 2010.

NOTARY PUBLIC NOTARY SEAL STATE OF MISSOURI

JERENE A. BUCKMAN
My Commission Expires
August 23, 2013
Cole County
Commission #09754037

Jerene A. Buckman
Notary Public

My commission expires August 23, 2013.

REBUTTAL TESTIMONY

OF

RYAN KIND

UNION ELECTRIC COMPANY

CASE NO. ER-2O10-0036

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

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

Q. ARE YOU THE SAME RYAN KIND THAT HAS PREVIOUSLY FILED DIRECT TESTIMONY IN THIS CASE REGARDING CLASS COST OF SERVICE (CCOS) AND RATE DESIGN ISSUES?

A. Yes.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of this testimony is to provide results of a revised class cost of service (CCOS) study and to address the direct testimony of the Union Electric Company (UE or the Company) and the Commission Staff (Staff) regarding the issue of cost recovery for demand-side management (DSM) programs.

Q. WHY IS PUBLIC COUNSEL PROVIDING THE RESULTS OF A REVISED CCOS STUDY AT THIS TIME?

A. The revised study was prompted by an inquiry that I received from one of the other parties this week about the manner in which I had treated the fuel costs associated with interchange sales (sometimes referred to as off-system sales or OSS). After reviewing the manner in which I had treated and allocated OSS in my original CCOS study, I determined that certain changes should be made to the manner in which OSS-related costs and revenues are treated and allocated in OPC's study so that it would more accurately allocate system-wide costs and offsetting revenues to the various customer classes.

Q. PLEASE DESCRIBE THOSE CHANGES THAT YOU MADE IN THE TREATMENT AND ALLOCATION OF OSS-RELATED COSTS AND OSS REVENUES.

A. In the original CCOS study that I presented in my direct testimony in this case, **gross** OSS revenues (except those associated solely with the sale of capacity) were allocated using one of the two production cost allocators (TOU or Average and 4 CP) that OPC used for its two CCOS studies. Also in the original study, I used the energy allocator to allocate OSS revenues associated solely with the sale of capacity.

The revised study allocates **net** OSS revenues using one of the two production cost allocators that OPC used for its two CCOS studies. The major change here is that the production cost allocators were applied to net OSS revenues (except those associated solely with the sale of capacity) instead of applying these allocators to gross OSS revenues. (Note – OSS net revenues differ from OSS gross revenues because the net revenues do not reflect the coal and other fossil fuel costs that were incurred to create the energy that generated the OSS revenues.) The other related change is that since only net OSS revenues are included in the revised study, the fuel costs associated with OSS are not included with the other Operating and Maintenance (O & M) production expenses as they were in the original study.

Finally, I changed the allocator for OSS revenues associated solely with capacity sales from the energy allocator to the production cost allocator, so that in each of OPC's two

CCOS studies, all OSS revenues are allocated with the same production cost allocator that was used to allocate production plant costs and non-variable O & M production expenses. The net effect of all the revised CCOS study changes described above was no change in the UE system-wide revenue requirement in the revised study but some small changes in class revenue requirements.

Attachment A summarizes the results of OPC's revised CCOS study. Comparing Attachment A from this rebuttal testimony to Attachment A from my direct testimony shows that the revisions discussed above have not had a large impact on OPC's CCOS study results. For example, the revised study with the TOU production allocator (OPC's preferred allocator) indicates that revenues for the residential class would need to increase by 1.19% (on a revenue neutral basis) to bring residential class revenues up to the level of costs that OPC's study has allocated to the residential class. This 1.19% increase study result replaces the .98% increase study result from OPC's original study presented in my direct testimony. Due to the relatively small changes in CCOS study results in the revised study, I am not modifying the rate design recommendation from my direct testimony where I recommended that "any overall revenue requirement increase that results from this case should be made by making equal percentage changes to all class revenue requirements."

Q. LET'S TURN NOW TO THE SUBJECT OF DSM COST RECOVERY. WHAT IS YOUR RESPONSE TO THE TESTIMONY OF UE WITNESS STEPHEN KIDWELL ON THIS SUBJECT?

A. First, I will address the comments that Mr. Kidwell makes on pages 12 and 13 of his testimony where he characterizes UE's existing cost recovery mechanism as "insufficient". Mr. Kidwell criticizes the existing mechanism because he says it only allows the Company to get the AFUDC rate of interest instead of earning "its rate of return on that investment, as it would after it constructed a new supply-side resource." According to Mr. Kidwell the existing mechanism does not allow the utility to "fully cover its cost of capital associated with demand-side investments."

Q. DOES PUBLIC COUNSEL BELIEVE THAT UE SHOULD BE PERMITTED A REASONABLE OPPORTUNITY TO "FULLY COVER ITS COST OF CAPITAL ASSOCIATED WITH DEMAND-SIDE INVESTMENTS?"

A. Yes, so long as those investments are prudent. The Staff's cost recovery treatment for UE's DSM investments is discussed at the top of page 43 in the Staff Report, Revenue Requirement, Cost of Service dated December 18, 2009 (Staff Report). On page 43, the Staff Report states:

> In this case the Staff has included in its development of AmerenUE's revenue requirement presented here, one tenth of the actual amount spent by the Company as the annual amortization expense associated with DSM programs. In addition, the Staff has included the actual amount spent by the Company on DSM programs **in AmerenUE's rate base.** [Emphasis added]

Q. THE ABOVE EXCERPT FROM STAFF'S REPORT INDICATES THAT THE STAFF HAS PLACED UE'S ACTUAL DSM PROGRAM EXPENDITURES "IN AMERENUE'S RATE BASE." DOES THIS INDICATE THAT THE STAFF IS APPLYING THE SAME RATE OF RETURN TO UE'S DSM PROGRAM EXPENDITURES AS WOULD BE APPLIED TO INVESTMENTS IN SUPPLY-SIDE RESOURCES?

A. Yes, the Staff's proposed cost recovery treatment for UE's actual DSM program expenditures includes applying the overall rate of return to UE's DSM investments. This cost recovery treatment gives UE a rate of return on its DSM investments that reflects the Company's overall cost of capital and provides cost recovery treatment that is equivalent to the treatment for supply-side investments.

Q. DOES PUBLIC COUNSEL AGREE WITH THE DSM COST RECOVERY TREATMENT METHODOLOGY THAT STAFF PROPOSES IN THE STAFF REPORT?

A. Yes, OPC also supports a DSM cost recovery mechanism for UE that calculates the DSM portion of UE's revenue requirement by using a 10 year amortization rate and providing for a return on, and return of, UE's actual prudently incurred DSM program costs over a 10 year period.

Q. RETURNING TO THE DIRECT TESTIMONY OF UE WITNESS STEPHEN KIDWELL. WHAT IS YOUR RESPONSE TO THE COMPANY'S PROPOSAL, ON PAGE 17 OF HIS DIRECT TESTIMONY, TO UTILIZE A TRACKER FOR DSM COST RECOVERY?

A. OPC is opposed to this proposal and, as stated previously supports the amortization approach that Staff has used to calculate the DSM portion of UE's revenue requirement in this case.

Q. WHY IS PUBLIC COUNSEL OPPOSED TO UE'S PROPOSAL TO USE A TRACKER FOR THE RECOVERY OF THE COMPANY'S DSM PROGRAM COSTS?

A. OPC is opposed to this proposal for several reasons. First, OPC believes that the amortization approach is adequate and provides for equivalent treatment of supply and demand-side resources. Second, the tracker mechanism that UE has proposed would be based on budget forecasts of future DSM program expenditures where the budgeted numbers greatly exceed UE's actual expenditures on DSM programs that have occurred during the test year and update period for this case. A tracker that sets rates based on rapid increases in DSM program spending will cause rates to be set at a level that reflects future costs, not historical costs. Third, UE has a poor track record of accurately forecasting future DSM program expenditures. Finally, trackers necessarily single out a particular item for special treatment and should only be used in truly extraordinary circumstances.

While I expect the information that I have on UE's actual DSM program expenditures to be more complete once UE responds to OPC DR No. 2076 (this response is currently about 10 days late), the information that I have received thus far in response to OPC DR No. 2010 (See Attachment B) indicates that in UE's first program year (the year ending 9/30/09), DSM program expenditures were less than ** **of the calendar year 2009 DSM expenditures reflected in UE's most recent IRP filing. As page 8 of the Power Point Presentation included in UE's response to OPC DR No. 2010 indicates, actual expenditures in the year ending 9/30/09 were only ** ** which is only about ** **of the ** ** of DSM 2009 program expenditures reflected in the DSM implementation plan included in UE's IRP filing in Case No. EO-2007-0409. The 2009 DSM program expenditure amount appears on page 82 of UE's IRP filing Risk Analysis and Strategy Selection volume for 4 CSR 240-22.070.

The "Plan/IRP" figure for the year ending 9/30/09 that appears on page 9 of the Power Point Presentation included in UE's response to OPC DR No. 2010 is ** ** which is more than ** ** the amount of UE's actual expenditures during the same time period. The same page of this power point presentation shows that UE's "Forecast/Goal" for the year ending 9/30/10 is ** ** Based on my overall knowledge of the current status of UE's DSM programs and the Company's future plans for further implementation of DSM programs I do not believe that UE's forecast (budget) for DSM program expenditures for the year ending 9/30/10 is credible.

Q. CAN YOU PROVIDE AN EXAMPLE OF A KEY PROGRAM WHERE UE'S DELAYED IMPLEMENTATION IS CONTRIBUTING TO THE COMPANY'S ONGOING PROBLEMS WITH REACHING BUDGETED LEVELS OF DSM PROGRAM EXPENDITURES?

A. Yes. The Residential energy efficiency program, Home Performance with Energy Star, should be a centerpiece of UE's residential energy efficiency programs but it has been continually delayed. The DSM implementation plan in UE's last IRP filing indicated that this program would be formally launched prior to the end of 2008. On page 10 of his direct testimony, UE witness Stephen Kidwell indicated that the Company hoped to have this program approved by the Commission and available to its customers by early fall of 2009. At UE's most recent DSM update meeting for stakeholders, held on February 4, 2010, UE representatives indicated that the Company did not expect to have this program rolled out within the first half of 2010.

Q. IF, CONTRARY TO OPC'S RECOMMENDATION, THE COMMISSION APPROVES UE'S PROPOSAL FOR A DSM TRACKER IN THIS CASE, HOW SHOULD THE COMMISSION APPLY INTEREST TO THE UNSPENT DSM FUNDS THAT ARE LIKELY TO BE REFLECTED IN THE TRACKER?

A. The Commission addressed the interest charges that should be applied to unspent energy efficiency funds in its Report and Order in Case No. GR-2009-0355 (MGE's recent rate case). In paragraph number 152 on page 60 of the MGE rate case Report and Order, the Commission stated the following as one of its Findings of Fact:

> 152. Ratepayers should be properly compensated when they supply monies to the utility via the regulatory process. The overall cost of capital is the appropriate rate to use when calculating interest on the energy efficiency funds so that all ratepayer supplied funds are treated consistently with all other monies supplied by ratepayers in the regulatory process.[footnote omitted]

While OPC supports this Commission decision on the appropriate level of interest that should be applied to unspent energy efficiency funds that have already been collected in rates, we still oppose UE's DSM tracker proposal in this case.

Q. IN HIS DIRECT TESTIMONY, MR. KIDWELL TALKS ABOUT HAVING DISCUSSIONS WITH STAKEHOLDERS IN AN EFFORT TO REACH CONSENSUS ABOUT RESOLVING THE DSM COST RECOVERY ISSUE THAT UE HAS RAISED IN THIS CASE. HAS OPC PARTICIPATED IN THESE DISCUSSIONS?

A. Yes, several members of OPC's staff have participated extensively in these discussions which have not yet lead to an agreement resolving the differences of the parties over this issue. OPC will continue to participate in these discussions to the extent permitted by our increasingly limited resources.

Q. HAVE YOU SEEN ANY INFORMATION ABOUT HOW UE'S INCENTIVE COMPENSATION POLICIES FOR ITS EMPLOYEES INVOLVED IN DESIGNING AND ADMINISTERING DSM PROGRAMS THAT LEADS YOU TO BELIEVE THAT THE INCENTIVE COMPENSATION STRUCTURE FOR UE'S EMPLOYEES COULD BE CONTRIBUTING TO UE'S FAILURE TO ACHIEVE ITS BUDGET/FORECAST GOALS IN THE DSM AREA?

A. I have thus far not been able to make an assessment of the impacts, if any, that UE's incentive compensation practices are having on UE's failure to achieve its budget/forecast goals in the DSM area since UE's response to OPC DR No. 2041, which pertains to this subject, was due in early January but is still unanswered at this time.

Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

A. Yes.

Revised Results From OPC's CCOS Study

Table 1 - Results of OPC's CCOS Study Using the TOU Production Allocator

	Res	SGS	LGS/SPS	LPS	LTS	System
Revenue Shift	11,445,568	(23,077,084)	(23,790,959)	16,440,898	18,981,578	0
% Revenue Shift	1.19%	-9.30%	-3.68%	9.85%	13.64%	0.00%

Table 2 - Results of OPC's CCOS Study Using the Avg. & 4 CP Production Allocator

	Res	SGS	LGS/SPS	LPS	LTS	System
Revenue Shift	31,094,776	(19,051,074)	(29,898,184)	12,319,555	5,534,926	0
% Revenue Shift	3.23%	-7.67%	-4.63%	7.38%	3.98%	0.00%

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<u>Kind Rebuttal</u>

<u>Attachment B</u>

has been deemed

"Highly Confidential"

in its entirety.