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Issue(s): MISO Excess Profit Refunds/
Duel Cost Eligibility for a FAC
Witness/Type of Exhibit: Hyneman/Rebuttal
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File No.: ER-2016-0179

REBUTTAL TESTIMONY
OF
CHARLES R. HYNEMAN

Submitted on Behalf of the Office of the Public Counsel

UNION ELECTRIC COMPANY
D/B/A AMEREN MISSOURI

FILE NO. ER-2016-0179

January 20, 2017

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


In the Matter of Union Electric)
Company d/b/a Ameren Missouri's) File No. ER-2016-0179
Tariffs to Increase Its Revenues)
for Electric Service)

AFFIDAVIT OF CHARLES R. HYNEMAN

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

Charles R. Hyneman, of lawful age and being first duly sworn, deposes and states:

1. My name is Charles R. Hyneman. I am the Chief Public Utility Accountant 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 testimony are true and correct to the best of my knowledge and belief.




Charles R. Hyneman, C.P.A.
Chief Public Utility Accountant

Subscribed and sworn to me this 20th day of January 2017.



JERENE A. BUCKMAN
My Commission Expires
August 23, 2017
Cole County
Commission #13754037



Jerene A. Buckman
Notary Public

My Commission expires August 23, 2017.

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REBUTTAL TESTIMONY
OF
CHARLES R. HYNEMAN
UNION ELECTRIC COMPANY
d/b/a AMEREN MISSOURI
FILE NO. ER-2016-0179

1 **INTRODUCTION**

2 **Q. Please state your name and business address.**

3 A. My name is Charles R. Hyneman. My business address is PO Box 2230, Jefferson City,
4 Missouri 65102.

5 **Q. Are you the same Charles R. Hyneman who filed direct testimony in this rate case?**

6 A. Yes, I am.

7 **Q. By whom are you employed and in what capacity?**

8 A. I have been employed by the Missouri Office of the Public Counsel (“OPC” or “Public
9 Counsel”) as Chief Public Utility Accountant since December 2015.

10 **Q. What is the purpose of your rebuttal testimony?**

11 A. My testimony addresses certain components of Ameren Missouri’s July 1, 2016 direct rate
12 case filing. Specifically I will be address concerns with the direct testimony of Ameren
13 Missouri witness Lynn Barnes including how Ms Barnes proposes to address a FERC-
14 ordered excess profit refunds from Midcontinent Independent System Operator, Inc.
15 (“MISO”) transmission owners to customers. I also provide support for OPC’s position on
16 the specific types of direct fuel costs that are eligible to include in an FAC. Finally I will
17 address the portions of Ms Barnes’ testimony that asserts that Ameren Missouri has little
18 control over the cost of its coal and nuclear fuel, and natural gas purchases. Finally, if the
19 Commission does not accept OPC’s recommendation on the specific types of direct fuel

1 costs to include in Ameren Missouri's FAC, I provide specific criteria that was developed
2 by the Commission in its FAC Rule (4 CSR 240-20.090) that should be applied to Ameren
3 Missouri's proposed fuel costs to include in its FAC.

4 **MISO EXCESS PROFIT REFUNDS**

5 **Q. Please explain the MISO excess profit refund issue.**

6 A. As addressed in my direct testimony, MISO is a FERC RTO in which Ameren Missouri is a
7 member and Transmission Owner. Regional Transmission Organizations ("RTOs") are
8 rate regulated by the Federal Energy Regulatory Commission ("FERC").

9 In its September 28, 2016 Order EL14-12-002 ("Opinion No. 551"), FERC found MISO's
10 currently authorized ROE to be unreasonable and cut its authorized ROE for MISO by more
11 than 200 basis points. FERC also ordered that MISO and MISO Transmission Owners
12 provide refunds, with interest, for the 15-month period from November 13, 2013 through
13 February 11, 2015.

14 Ameren Missouri witness Lynn Barnes briefly describes, at page 19 of her direct testimony,
15 how the Company proposes to address a FERC-ordered refund from MISO. Ms. Barnes
16 states there have been several proceedings at FERC that resulted, or may result, in a
17 reduction of the return on equity used to set past MISO transmission charges and could
18 result in refunds or credits to Ameren Missouri. Ms. Barnes states, to the extent the refunds
19 or credits relate to charges not included in Ameren Missouri's FAC (were included in
20 Ameren Missouri's base rates), the refunds or credits should be given to Ameren's
21 shareholders.

22 Ms. Barnes rationalizes that these MISO transmission expenses (the portion not included in
23 the FAC) were paid by Ameren Missouri shareholders and not its customers. In her
24 testimony, she does not explain that statement.

1 However, on this issue the facts are clear. Rates paid by Ameren Missouri’s customers
2 included MISO transmission charges based on a MISO ROE that FERC determined was
3 excessive. FERC ordered a refund. Ameren Missouri’s customers paid higher rates than
4 they would have if the ROE had been lower and therefore are entitled to that refund.

5 **Q. In direct testimony did the OPC request that the FERC ordered MISO ROE refund**
6 **issue be included in any true-up issue list in this rate case?**

7 A. Yes, it did. However FERC granted an extension to the MISO transmission owners to
8 provide that refund from the original October 28, 2016 date to July 28, 2017, well past the
9 true-up date in this rate case. As stated by FERC in its *Notice of Extension of Time* in
10 Docket EL14-12 “Upon consideration, notice is hereby given to all parties that an extension
11 of time to complete refunds and refund reports is granted to and including July 28, 2017.”

12 FERC Docket No. EL14-12
13 NOTICE OF EXTENSION OF TIME
14 (October 28, 2016) On September 28, 2016, the Commission issued
15 Opinion No. 551 in this proceeding, which reduced the MISO-wide
16 base rate of return on equity (ROE) from 12.38 percent to 10.32
17 percent.¹ Opinion No. 551 also ordered Midcontinent Independent
18 System Operator, Inc. (MISO) and the MISO Transmission Owners²
19 (collectively, Filing Parties) to provide refunds on October 28, 2016,
20 30 days from the date of Opinion No. 551’s issuance.

21
22 On October 21, 2016, the Filing Parties filed a motion for an
23 extension of time to make refunds in the above-referenced
24 proceeding until July 28, 2017. The Filing Parties state that
25 additional time is needed for the Filing Parties to implement the
26 directed refunds due to the complexity of the refund calculations, the
27 various effective dates of individual transmission owners’ refund
28 obligations and commitments, and the multiple information
29 exchanges required to calculate refund amounts. The Filing Parties
30 state that, because of these complications, it is “not feasible” to
31 implement the directed refunds by October 28, 2016.
32

1 **Q. Is it OPC's understanding that some of the MISO refunds will be reflected in Staff's**
2 **updated revenue requirement recommendation in this rate case?**

3 A. No. OPC understands that Staff will not be reflecting any refunds in its cost of service
4 revenue requirement recommendation.

5 **Q. How does OPC propose to treat the MISO excess profit refunds that, only because of**
6 **FERC's granting of a payment extension, will not be actually be received in the test**
7 **year or true up period in this rate case?**

8 A. OPC recommends that the Commission order Ameren Missouri to defer all refunds received
9 in FERC Account 254, Other Regulatory Liabilities. The specific ratemaking treatment
10 afforded these deferrals will be decided by the Commission in Ameren Missouri's next
11 general rate case or earnings complaint case, whichever occurs first.

12 **FUEL COST ELIGIBILITY FOR A FAC**

13 **Q. What are your concerns with the assertions made and positions taken by Ms Barnes?**

14 A. In her direct testimony, Ms Barnes provides Ameren Missouri's beliefs why its fuel
15 adjustment clause is still necessary. I disagree with much of this testimony, especially her
16 assertion that Ameren Missouri's fuel costs are volatile. While OPC does not believe that
17 Ameren Missouri's fuel costs are volatile, it is not recommending to the Commission that it
18 suspend Ameren Missouri's FAC in this current rate case. I will address the issue of fuel
19 price volatility later in this testimony.

20 My primary concern with Ms Barnes' direct testimony is with the specific types of fuel
21 expenses appropriately included in Ameren Missouri's FAC. In her Schedule LMB-2
22 Attachment C to her direct testimony, Ms Barnes lists several non-direct fuel cost items in
23 FERC accounts 501, 502, 547, and 518 that she proposes to include in the FAC.

1 **Q. Does OPC’s position on the specific fuel costs to include in an FAC have any impact on**
2 **Ameren Missouri’s ability to recover other indirect “fuel-related” costs?**

3 A. No. These types of non-direct fuel expenses have been, and will continue to be, recovered
4 in Ameren Missouri’s base rates established in a rate case in a similar manner to much of
5 Ameren Missouri’s other operations and maintenance (“O&M”) expenses. In addition to
6 allowing rate recovery of these indirect fuel-related costs, the inclusion of these costs in base
7 rates allows Ameren Missouri to take advantage of potential benefits of regulatory lag from
8 declining costs in these specific expenses.

9 **Q. What is OPC’s position on the types of direct fuel costs that should be included in an**
10 **FAC?**

11 A. OPC witness Lena Mantle is OPC’s primary witness on OPC’s FAC position in this case.
12 At page 4 of her direct testimony Ms. Mantle summarizes OPC’s overall FAC position. I
13 am addressing items 1a and 1b as listed at page 4 of Ms Mantle’s direct testimony. For
14 Ameren Missouri’s FAC fuel costs, OPC recommends the Commission only allow the
15 delivered fuel commodity costs, including inventory adjustments to the commodity,
16 commodity quality adjustments, taxes assessed on the purchase of the commodity, and the
17 cost of transporting the fuel from the fuel source to the generation plants.

18 **Q. Is OPC’s recommendation of the specific types of fuel costs that should be eligible to**
19 **included in Ameren Missouri’s FAC consistent with the FERC Account 151, Fuel**
20 **Stock, which is part of the FERC’s Uniform Systems off Accounts (“USOA”)?**

21 A. Yes.

22 **Q. Does the Commission require Ameren Missouri regulated to record its fuel purchases**
23 **in accordance with the USOA?**

24 A. Yes. Commission Rule 4 CSR 240-20.030(1) (“USOA Rule”) provides:

1 Beginning January 1, 1994, every electrical corporation subject to
2 the commission's jurisdiction shall keep all accounts in conformity
3 with the Uniform System of Accounts Prescribed for Public
4 Utilities and Licensees subject to the provisions of the Federal
5 Power Act, as prescribed by the Federal Energy Regulatory
6 Commission (FERC) and published at 18 CFR Part 101 (1992) and
7 1 FERC Stat. & Regs. paragraph 15,001 and following (1992),
8 except as otherwise provided in this rule.
9

10 This uniform system of accounts provides instruction for recording
11 financial information about electric utilities. It contains definitions,
12 general instructions, electric plant instructions, operating expense
13 instructions, and accounts that comprise the balance sheet, electric
14 plant, income, operating revenues, and operation and maintenance
15 expenses.
16

17 **Q. What is the reason you are citing to the USOA Rule above?**

18 A. The purpose is to note that Ameren Missouri is very familiar with the nature and of the
19 specific direct fuel costs that FERC allows to be charged to Account 151, Fuel Stock. As
20 will be discussed later, fuel costs charged to Account 151 are the only fuel costs FERC
21 allows to be included in the fuel adjustment clause administered by FERC.

22 **Q. In her direct testimony did OPC witness Lena Mantle propose changes to Ameren's**
23 **FAC?**

24 A. Yes, she did. In her direct testimony, Ms. Mantle proposes changes to Ameren Missouri's
25 FAC structure and design. OPC's FAC recommendation to the Commission in this rate case
26 will allow Ameren Missouri's fuel charges, purchased power charges, and the related
27 transportation charges to flow through the FAC significantly reducing earnings risk to
28 Ameren Missouri. In addition, OPC's proposal will make Ameren Missouri's FAC 1) more
29 transparent and manageable for Ameren Missouri to administer, 2) reduce disincentives for
30 the implementation of efficiencies; 3) increase incentives for cost saving; 4) easier for the
31 Commission to oversee, 5) easier to conduct an FAC prudence audit; and 6) less susceptible
32 to errors in Ameren Missouri's FAC calculations and charges to its customers.

1 **Q. Does MoPSC’s FAC Rule define a FAC?**

2 A. Yes. FAC Rule Paragraph 2(C) states that a FAC “means a mechanism established in a
3 general rate proceeding that allows periodic rate adjustments, outside a general rate
4 proceeding, to reflect increases and decreases in an electric utility’s prudently incurred fuel
5 and purchased power costs.”

6 **Q. Is there disagreement between Ameren Missouri and OPC on the definition of fuel
7 costs eligible to be included in a FAC?**

8 A. Yes. OPC’s position is only direct fuel costs (coal, uranium, natural gas, and oil) are
9 appropriate to be included in an FAC. Ameren Missouri applies a broader definition of FAC
10 eligible fuel costs. The fuel costs Ameren Missouri proposes to be included in its FAC are
11 listed in the first four pages to Ms. Barnes Schedule LMB-2 Attachment C attached to her
12 direct testimony. This list of expenses includes not only eligible fuel costs, but also general,
13 indirect “fuel-related” expenses that are FAC eligible.

14 **Q. Does the MoPSC’s FAC Rule provide any guidance on the types of fuel costs that
15 should be included in a FAC?**

16 A. Yes. Paragraph 1B states that fuel and purchased power costs means “prudently incurred
17 and used fuel and purchased power costs, including transportation costs.”

18 **Q. Does the Federal Energy Regulatory Commission (“FERC”) allow electric utilities
19 under its jurisdiction to use a fuel adjustment clause?**

20 A. Yes. An explanation of the FERC FAC can be found at CFR Title 18 Chapter I Subchapter
21 B Part 35 Subpart C Section 35.14 *Fuel cost and purchased economic power adjustment*
22 *clauses* (“Section 35.14”, or “FERC FAC”).

23 **Q. Does the FERC FAC have detailed and clear requirements for what constitutes fuel
24 costs that are eligible to be included in a FERC FAC?**

1 A. Yes. The requirements of the FERC's FAC as it relate to the eligibility of fuel costs mirrors
2 OPC's recommendations (as described above and reflected on page 4 of OPC witness
3 Mantle's direct testimony) in this rate case.

4 **Q. Is Ameren Missouri familiar with the FERC FAC?**

5 A. Yes. It is my understanding that Ameren Missouri currently has a FERC FAC or has
6 operated under a FERC FAC in the past.

7 **Q. What are the requirements the FERC imposes on jurisdictional utilities for fuel costs
8 eligibility for a FAC?**

9 A. FERC's requirements states that only fossil fuel expenses appropriately charged to FERC
10 Uniform System of Accounts ("USOA") account 151, *Fuel Stock* are eligible to be included
11 in the FERC FAC. It also allows nuclear fuel charges to USOA account 518, Nuclear Fuel
12 to be charged to its FAC. 18 CFR 35.14 is attached as Schedule CRH-R-1 to this testimony.

13 (6) The cost of fossil fuel shall include no items other than those
14 listed in Account 151 of the Commission's Uniform System of
15 Accounts for Public Utilities and Licensees. The cost of nuclear fuel
16 shall be that as shown in Account 518, except that if Account 518
17 also contains any expense for fossil fuel which has already been
18 included in the cost of fossil fuel, it shall be deducted from this
19 account. (Paragraph C of Account 518 includes the cost of other
20 fuels used for ancillary steam facilities.)

21
22
23 **Q. How does FERC define fuel that it allows to be recorded in a FAC?**

24 A. In its FAC, FERC quite simply states that fuel costs shall be the cost of fossil and nuclear
25 fuel consumed in the utility's own plants and the utility's share of fossil and nuclear fuel
26 consumed in jointly owned or leased plants.

27 **Q. What is included in FERC Account 151, Fuel Stock?**

1 A. FERC Account 151 is a current asset account charged with the cost of fossil fuel that is
2 purchased by the utility. As the fuel Account 151 cost is consumed in the generation of
3 electricity, the cost of this fuel is charged to the appropriate expense account. This would
4 include Account 501 for coal, Account 547 for natural gas and oil, and nuclear fuel expense
5 is recorded in Account 518.

6 FERC Account 151 includes the invoice cost of the fuel purchased, transportation charges,
7 taxes, commissions, insurance directly related to the fuel purchased, O&M, and depreciation
8 expenses directly related to assets used to transport fuel from the fuel source to the
9 generation station. If the utility does not own such an asset but only leases it, this lease or
10 rent expense is allowed by FERC to be charged to Account 151.

11 FERC strictly applies the Account 151 standard for cost allowed in an FAC. It is easy to see
12 how the FERC criteria for fuel to be included in an FAC for all of its jurisdictional electric
13 utilities throughout the United States is very similar to the OPC recommend criteria for
14 FACs in Missouri.

15 **151 Fuel stock**

16 This account shall include the book cost of fuel on hand. Items 1.
17 Invoice price of fuel less any cash or other discounts. 2. Freight,
18 switching, demurrage and other transportation charges, not including,
19 however, any charges for unloading from the shipping medium. 3.
20 Excise taxes, purchasing agents' commissions, insurance and other
21 expenses directly assignable to cost of fuel. 4. Operating,
22 maintenance and depreciation expenses and ad valorem taxes on
23 utility-owned transportation equipment used to transport fuel from
24 the point of acquisition to the unloading point. 5. Lease or rental
25 costs of transportation equipment used to transport fuel from the
26 point of acquisition to the unloading point. (FERC Account 151 is
27 also attached as Schedule CRH-R2 to this testimony)
28

1 **Q. Does the FERC reach any conclusions concerning FACs that do not include the**
2 **principles set out in the FERC FAC, such as the Paragraph A(6) Fuel and FERC**
3 **Account 151 criteria?**

4 A. Yes. FERC states that FAC not in conformity with Section 35.14 are not in the public
5 interest and OPC. Any Missouri electric utility FAC with fuel expenses that are not
6 consistent with Account 151 criteria lack transparency, included non-direct fuel costs,
7 causes FAC audits to be more difficult to perform, and decreases management incentives to
8 be cost efficient with respect to these expenses. As a result, this FAC design is detrimental
9 to Missouri's electric utility ratepayers.

10 **Q. Is a FAC that includes only FERC Account 151 direct fuel charges (in addition to**
11 **other cost components such as purchased power) reasonably designed to provide a**
12 **Missouri electric utility such as Ameren Missouri with a sufficient opportunity to earn**
13 **a fair return on equity?**

14 A. Yes. Ameren Missouri does not require an FAC to earn a reasonable return on equity.
15 However, the FAC design proposed by OPC and actually employed by the FERC allows for
16 a more than sufficient opportunity to earn a fair return on equity. If Ameren Missouri
17 believes that only including Account 151 fuel costs in its FAC does not provide it a
18 sufficient opportunity to earn a fair return on equity, it needs to provide some analysis or
19 provide convincing evidence of this position. Ameren Missouri has not and cannot provid
20 any such evidence in this rate. Ameren Missouri's cost of actual fuel and direct fuel costs
21 under OPC's definition dwarfs the relative immaterial nature of all of its indirect fuel-related
22 costs that are not allowed under the USOA to charge to Account 151.

23 **Q. Is OPC suggesting that fuel costs Ameren Missouri proposes to include in its FAC**
24 **meet specific criteria?**

1 A. Yes. First, the fuel costs must be appropriately charged to Account 151, Fuel Stock. If the
2 MoPSC, unlike the FERC, does not apply this basic test, then other criteria must be applied
3 by the Commission and these criteria must be met by Ameren Missouri.

4 These criteria include for each specific indirect fuel-related cost shown in Ms Barnes's
5 attachment 1) an evaluation if exclusion of a specific indirect fuel-related cost will cause
6 Ameren Missouri not to have a sufficient opportunity to earn a fair return, 2) a finding that
7 the magnitude of expense is material to annual net income (on which return on equity is
8 based), 3) a finding whether or not the specific indirect fuel-related costs sought by Ameren
9 Missouri is volatile in its own right and 4) a finding by the Commission that Ameren
10 Missouri has no control over the level of the indirect fuel-related costs.

11 **Q. Assuming that the Commission does not support OPC's recommendation and apply**
12 **the FERC Account 151 test to Ameren Missouri's proposed FAC fuel costs, are the**
13 **criteria or tests you recommended found in the MoPSC's own FAC Rule?**

14 A. Yes. In addition to being included in various Commission Report and Orders, these criteria
15 are found in Paragraph 2A of the MoPSC's FAC Rule as shown below:

16
17 A) The commission may approve the establishment, continuation or
18 modification of a RAM and associated rate schedules provided that it
19 finds that the RAM it approves is reasonably designed to provide the
20 electric utility with a sufficient opportunity to earn a fair return on
21 equity and so long as the rate schedules that implement the RAM
22 conform to the RAM approved by the commission. (C) In
23 determining which cost components to include in a RAM, the
24 commission will consider, but is not limited to only considering, the
25 magnitude of the costs, the ability of the utility to manage the costs,
26 the volatility of the cost component and the incentive provided to the
27 utility as a result of the inclusion or exclusion of the cost component.
28 The commission may, in its discretion, determine what portion of
29 prudently incurred fuel and purchased power costs may be recovered
30 in a RAM and what portion shall be recovered in base rates.
31

1 **Q. Did Ameren Missouri witness Lynn Barnes provide five reasons why Ameren Missouri**
2 **believes it is appropriate to continue its fuel adjustment clause (“FAC”)?**

3 A. Yes. The five reasons listed at page 5 of her direct testimony are listed below:

- 4 1. All factors the Commission has generally considered in evaluating
- 5 FACs favor continuation.
- 6 2. FAC is designed to provide Ameren Missouri with an opportunity
- 7 to earn a “fair” return
- 8 3. Without a FAC Ameren Missouri will be subject to regulatory
- 9 lag.
- 10 4. If the Commission did not continue the FAC it would reflect an
- 11 “inconsistent regulatory policy” that would harm Ameren Missouri’s
- 12 access to low cost capital
- 13 5. Virtually all other electric utilities in Ameren Missouri’s credit
- 14 rating agency peer group have a FAC.
- 15

16 **Q. Even though OPC is not recommending the cessation of Ameren Missouri’s FAC, does**
17 **OPC agree Ameren Missouri still needs a FAC in place for it to have a reasonable**
18 **opportunity to earn a fair return on its investments in utility assets?**

19 A. No. Ameren Missouri has provided no reasonable analysis other than that it needs an FAC to
20 earn a fair return. In fact, Ms. Barnes suggests otherwise. As indicated at page 6 lines 11-
21 14 of Ms Barnes’ direct testimony, if Ameren was operating without a FAC, its recent 2015
22 earned return on equity would have been higher. If anything, in 2015 and possibly 2016,
23 Ameren Missouri’s FAC resulted in a detrimental impact on Ameren Missouri’s earnings.

24 **Q. Do you believe Ameren Missouri’s fuel and purchased power costs are beyond the**
25 **control of management?**

26 A. I do know that Ameren Missouri has significant control, or the ability to control the price it
27 pays for the fuel it consumes in its generation units. Below I will address Ameren
28 Missouri’s control over coal and nuclear fuel, which make up most of its fuel purchase
29 portfolio. Even though natural gas prices have been very low and non-volatile over a period

1 of several years (with the exception of the period of the polar vortex), natural gas costs are
2 immaterial to Ameren Missouri. If the Commission looked at the costs of each fuel type,
3 the Commission would find that Ameren Missouri's natural gas cost are not volatile, and are
4 not sufficiently material to merit inclusion in Ameren Missouri's FAC.

5 **Q. Are all the costs OPC is recommending not to be included in Ameren's FAC going to**
6 **be recovered in Ameren's base rates established in this rate case?**

7 A. Yes. The only difference is that Ameren Missouri will not receive the almost 100%
8 guarantee of rate recovery of the expenses that are included in its FAC, and Ameren
9 Missouri management will have more incentives to keep these expense as low as reasonably
10 possible.

11 **Q. Explain how Ameren Missouri has the ability to control its exposure to fuel costs.**

12 A. Ameren Missouri hedges its exposure to coal commodity and coal transportation prices
13 though forward purchase contracts and other price hedges. Electric utilities have found the
14 use of forward purchase contracts as an effective hedge against coal price risk. Ameren
15 Missouri communicates this significant control over coal prices in its most recent Annual
16 Report to the Securities and Exchange Commission ("SEC"), designates as Form 10-K.

17
18 Coal - Ameren Missouri has an ongoing need for coal for generation,
19 so it pursues a price-hedging strategy consistent with this
20 requirement. Ameren Missouri has agreements in place to purchase
21 coal and to transport it to energy centers.

22
23 Most of Ameren Missouri's coal supply agreements expire at the end
24 of 2017, and its existing coal transport agreements expire at the end
25 of 2019. Ameren Missouri has additional coal supply contracts in
26 place to provide a portion of its coal supply in 2018.

27
28 Ameren Missouri has coal transport agreements with Union Pacific
29 Railroad and Burlington Northern Santa Fe Railway. As of
30 December 31, 2015, Ameren Missouri had price-hedged 100% of its

1 expected coal supply and coal transportation requirements for
2 generation in 2016. Ameren Missouri burned 18 million tons of coal
3 in 2015 (Ameren Missouri 2015 SEC Form 10-K page 11)
4
5

6 **Q. Explain how Ameren Missouri has or has the ability to control its exposure to nuclear**
7 **fuel costs.**

8 A. Similar to how Ameren Missouri management exerts control over its price exposure to coal
9 commodity and coal transportation costs, Ameren Missouri uses forward contracts to hedge
10 the costs of its nuclear fuel. Ameren Missouri summarized this nuclear fuel hedging
11 strategy in its 2015 Form 10-K:

12 As of December 31, 2015, Ameren Missouri has agreements or
13 inventories to price-hedge 100% of Callaway's 2016 spring refueling
14 requirements. Ameren Missouri has uranium (concentrate and
15 hexafluoride) inventories and supply contracts sufficient to meet all
16 of its uranium and conversion requirements at least through 2018.
17 Ameren Missouri has enriched uranium inventories and enrichment
18 supply contracts sufficient to satisfy enrichment requirements
19 through at least 2020 and fuel fabrication service contracts through at
20 least 2022. (Ameren Missouri 2015 SEC Form 10-K page 11)
21
22

23 **Q. Does this conclude your rebuttal testimony?**

24 A. Yes, it does.

§35.14

The filing utility shall describe generally its program for providing reliable and economic power for the period beginning with the date of the filing and ending with the tenth year after the test period. The statement shall include an assessment of the relative costs of adopting alternative strategies including an analysis of alternative production plant, *e.g.*, cogeneration, small power production, heightened load management and conservation efforts, additions to transmission plant or increased purchases of power, and an explanation of why the program adopted is prudent and consistent with a least-cost energy supply program.

(Federal Power Act, 16 U.S.C. 791-828c; Dept. of Energy Organization Act, 42 U.S.C. 7101-7352; E.O. 12009, 42 FR 46267, 3 CFR 142 (1978); Pub. L. 96-511, 94 Stat. 2812 (44 U.S.C. 3501 *et seq.*))

[Order 91, 45 FR 46363, July 10, 1980]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §35.13, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

Subpart C—Other Filing Requirements

§35.14 Fuel cost and purchased economic power adjustment clauses.

(a) Fuel adjustment clauses (fuel clause) which are not in conformity with the principles set out below are not in the public interest. These regulations contemplate that the filing of proposed rate schedules, tariffs or service agreements which embody fuel clauses failing to conform to the following principles may result in suspension of those parts of such rate schedules, tariffs, or service agreements:

(1) The fuel clause shall be of the form that provides for periodic adjustments per kWh of sales equal to the difference between the fuel and purchased economic power costs per kWh of sales in the base period and in the current period:

Adjustment Factor = $F_m/S_m - F_b/S_b$

Where: *F* is the expense of fossil and nuclear fuel and purchased economic power in the base (*b*) and current (*m*) periods; and *S* is the kWh sales in the

18 CFR Ch. I (4-1-10 Edition)

base and current periods, all as defined below.

(2) Fuel and purchased economic power costs (*F*) shall be the cost of:

(i) Fossil and nuclear fuel consumed in the utility's own plants, and the utility's share of fossil and nuclear fuel consumed in jointly owned or leased plants.

(ii) The actual identifiable fossil and nuclear fuel costs associated with energy purchased for reasons other than identified in paragraph (a)(2)(iii) of this section.

(iii) The total cost of the purchase of economic power, as defined in paragraph (a)(11) of this section, if the reserve capacity of the buyer is adequate independent of all other purchases where non-fuel charges are included in either *F_b* or *F_m*;

(iv) Energy charges for any purchase if the total amount of energy charges incurred for the purchase is less than the buyer's total avoided variable cost;

(v) *And less* the cost of fossil and nuclear fuel recovered through all inter-system sales.

(3) Sales (*S*) must be all kWh's sold, excluding inter-system sales. Where for any reason, billed system sales cannot be coordinated with fuel costs for the billing period, sales may be equated to the sum of: (i) Generation, (ii) purchases, (iii) exchange received, less (iv) energy associated with pumped storage operations, less (v) inter-system sales referred to in paragraph (a)(2)(iv) of this section, less (vi) total system losses.

(4) The adjustment factor developed according to this procedure shall be modified to properly allow for losses (estimated if necessary) associated only with wholesale sales for resale.

(5) The adjustment factor developed according to this procedure may be further modified to allow the recovery of gross receipts and other similar revenue based tax charges occasioned by the fuel adjustment revenues.

(6) The cost of fossil fuel shall include no items other than those listed in Account 151 of the Commission's Uniform System of Accounts for Public Utilities and Licensees. The cost of nuclear fuel shall be that as shown in Account 518, except that if Account 518 also contains any expense for fossil fuel

which has already been included in the cost of fossil fuel, it shall be deducted from this account. (Paragraph C of Account 518 includes the cost of other fuels used for ancillary steam facilities.)

(7) Where the cost of fuel includes fuel from company-owned or controlled¹ sources, that fact shall be noted and described as part of any filing. Where the utility purchases fuel from a company-owned or controlled source, the price of which is subject to the jurisdiction of a regulatory body, and where the price of such fuel has been approved by that regulatory body, such costs shall be presumed, subject to rebuttal, to be reasonable and includable in the adjustment clause. If the current price, however, is in litigation and is being collected subject to refund, the utility shall so advise the Commission and shall keep a separate account of such amounts paid which are subject to refund, and shall advise the Commission of the final disposition of such matter by the regulatory body having jurisdiction. With respect to the price of fuel purchases from company-owned or controlled sources pursuant to contracts which are not subject to regulatory authority, the utility company shall file such contracts and amendments thereto with the Commission for its acceptance at the time it files its fuel clause or modification thereof. Any subsequent amendment to such contracts shall likewise be filed with the Commission as a rate schedule change and may be subject to suspension under section 205 of the Federal Power Act. Fuel charges by affiliated companies which do not appear to be reasonable may result in the suspension of the fuel adjustment clause or cause an investigation thereof to be made by the Commission on its own motion under section 206 of the Federal Power Act.

(8) All rate filings which contain a proposed new fuel clause or a change in an existing fuel clause shall conform such clauses with the regulations. Within one year of the effectiveness of this rulemaking, all public utilities

with rate schedules that contain a fuel clause should conform such clauses with the regulations. Recognizing that individual public utilities may have special operating characteristics that may warrant granting temporary delays in the implementation of the regulations, the Commission may, upon showing of good cause, waive the requirements of this section of the regulations for an additional one-year period so as to permit the public utilities sufficient time to adjust to the requirements.

(9) All rate filings containing a proposed new fuel clause or change in an existing fuel clause shall include:

(i) A description of the fuel clause with detailed cost support for the base cost of fuel and purchased economic power or energy.

(ii) Full cost of service data unless the utility has had the rate approved by the Commission within a year, provided that such cost of service may not be required when an existing fuel cost adjustment clause is being modified to conform to the Commission's regulations.

(10) Whenever particular circumstances prevent the use of the standards provided for herein, or the use thereof would result in an undue burden, the Commission may, upon application under § 385.207 of this chapter and for good cause shown, permit deviation from these regulations.

(11) For the purpose of paragraph (a)(2)(iii) of this section, the following definitions apply:

(i) *Economic power* is power or energy purchased over a period of twelve months or less where the total cost of the purchase is less than the buyer's total avoided variable cost.

(ii) *Total cost of the purchase* is all charges incurred in buying economic power and having such power delivered to the buyer's system. The total cost includes, but is not limited to, capacity or reservation charges, energy charges, adders, and any transmission or wheeling charges associated with the purchase.

(iii) *Total avoided variable cost* is all identified and documented variable costs that would have been incurred by the buyer had a particular purchase not been made. Such costs include, but

¹ As defined in the Commission's Uniform System of Accounts 18 CFR part 101, Definitions 5B.

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are not limited to, those associated with fuel, start-up, shut-down or any purchases that would have been made in lieu of the purchase made.

(12) For the purpose of paragraph (a)(2)(iii) of this section, the following procedures and instructions apply:

(i) A utility proposing to include purchase charges other than those for fuel or energy in fuel and purchased economic power costs (F) under paragraph (a)(2)(iii) of this section shall amend its fuel cost adjustment clause so that it is consistent with paragraphs (a)(1) and (a)(2)(iii) of this section. Such amendment shall state the system reserve capacity criteria by which the system operator decides whether a reliability purchase is required. Where the utility filing the statement is required by a State or local regulatory body (including a plant site licensing board) to file a capacity criteria statement with that body, the system reserve capacity criteria in the statement filed with the Commission shall be identical to those contained in the statement filed with the State or local regulatory body. Any utility that changes its reserve capacity criteria shall, within 45 days of such change, file an amended fuel cost and purchased economic power adjustment clause to incorporate the new criteria.

(ii) Reserve capacity shall be deemed adequate if, at the time a purchase was initiated, the buyer's system reserve capacity criteria were projected to be satisfied for the duration of the purchase without the purchase at issue.

(iii) The total cost of the purchase must be projected to be less than total avoided variable cost, at the time a purchase was initiated, before any non-fuel purchase charge may be included in F_m .

(iv) The purchasing utility shall make a credit to F_m after a purchase terminates if the total cost of the purchase exceeds the total avoided variable cost. The amount of the credit shall be the difference between the total cost of the purchase and the total avoided variable cost. This credit shall be made in the first adjustment period after the end of the purchase. If a utility fails to make the credit in the first adjustment period after the end of the purchase, it shall, when making the

credit, also include in F_m interest on the amount of the credit. Interest shall be calculated at the rate required by § 35.19a(a)(2)(iii) of this chapter, and shall accrue from the date the credit should have been made under this paragraph until the date the credit is made.

(v) If a purchase is made of more capacity than is needed to satisfy the buyer's system reserve capacity criteria because the total costs of the extra capacity and associated energy are less than the buyer's total avoided variable costs for the duration of the purchase, the charges associated with the non-reliability portion of the purchase may be included in F .

(Approved by the Office of Management and Budget under control number 1902-0096)

(Federal Power Act, 16 U.S.C. 824d, 824e and 825h (1976 & Supp. IV 1980); Department of Energy Organization Act, 42 U.S.C. 7171, 7172 and 7173(c) (Supp. IV 1980); E.O. 12009, 3 CFR part 142 (1978); 5 U.S.C. 553 (1976))

[Order 271, 28 FR 10573, Oct. 2, 1963, as amended by Order 421, 36 FR 3047, Feb. 17, 1971; 39 FR 40583, Nov. 19, 1974; Order 225, 47 FR 19056, May 3, 1982; Order 352, 48 FR 55436, Dec. 13, 1983; 49 FR 5073, Feb. 10, 1984; Order 529, 55 FR 47321, Nov. 13, 1990; Order 600, 63 FR 53809, Oct. 7, 1998; Order 714, 73 FR 57532, Oct. 3, 2008; 73 FR 63886, Oct. 28, 2008]

§ 35.15 Notices of cancellation or termination.

(a) *General rule.* When a rate schedule, tariff or service agreement or part thereof required to be on file with the Commission is proposed to be cancelled or is to terminate by its own terms and no new rate schedule, tariff or service agreement or part thereof is to be filed in its place, a filing must be made to cancel such rate schedule, tariff or service agreement or part thereof at least sixty days but not more than one hundred-twenty days prior to the date such cancellation or termination is proposed to take effect. A copy of such notice to the Commission shall be duly posted. With such notice, each filing party shall submit a statement giving the reasons for the proposed cancellation or termination, and a list of the affected purchasers to whom the notice has been provided. For good cause shown, the Commission may by order provide that the notice of cancellation or termination shall be effective as of a

(3) The interest rate, including the method used to determine the interest earning rates and interest borrowing rates for deposits into and borrowings from the program; and

(4) The method used to allocate interest income and expenses among public utilities or licensees in the program.

NOTE A: On the balance sheet, accounts receivable from an associated company may be set off against accounts payable to the same company.

NOTE B: The face amount of notes receivable discounted, sold or transferred without releasing the utility from liability as endorser thereon, shall be credited to a separate subdivision of this account and appropriate disclosure shall be made in financial statements of any contingent liability arising from such transactions.

151 Fuel stock (Major only).

This account shall include the book cost of fuel on hand.

Items

1. Invoice price of fuel less any cash or other discounts.
2. Freight, switching, demurrage and other transportation charges, not including, however, any charges for unloading from the shipping medium.
3. Excise taxes, purchasing agents' commissions, insurance and other expenses directly assignable to cost of fuel.
4. Operating, maintenance and depreciation expenses and ad valorem taxes on utility-owned transportation equipment used to transport fuel from the point of acquisition to the unloading point.
5. Lease or rental costs of transportation equipment used to transport fuel from the point of acquisition to the unloading point.

152 Fuel stock expenses undistributed (Major only).

A. This account may include the cost of labor and of supplies used and expenses incurred in unloading fuel from the shipping medium and in the handling thereof prior to its use, if such expenses are sufficiently significant in amount to warrant being treated as a part of the cost of fuel inventory rather than being charged direct to expense as incurred.

B. Amounts included herein shall be charged to expense as the fuel is used to the end that the balance herein shall not exceed the expenses attributable to the inventory of fuel on hand.

ITEMS

Labor:

1. Procuring and handling of fuel.
 2. All routine fuel analyses.
 3. Unloading from shipping facility and putting in storage.
 4. Moving of fuel in storage and transferring from one station to another.
 5. Handling from storage or shipping facility to first bunker, hopper, bucket, tank or holder of boiler house structure.
 6. Operation of mechanical equipment, such as locomotives, trucks, cars, boats, barges, cranes, etc.
- Supplies and Expenses:
7. Tools, lubricants and other supplies.
 8. Operating supplies for mechanical equipment.
 9. Transportation and other expenses in moving fuel.
 10. Stores expenses applicable to fuel.

153 Residuals (Major only).

This account shall include the book cost of any residuals produced in production or manufacturing processes.

154 Plant materials and operating supplies.

A. This account shall include the cost of materials purchased primarily for use in the utility business for construction, operation and maintenance purposes. For Nonmajor utilities, this account shall include the cost of fuel on hand and unapplied materials and supplies (except meters and house regulators). For both Major and Nonmajor utilities, it shall include also the book cost of materials recovered in connection with construction, maintenance or the retirement of property, such materials being credited to construction, maintenance or accumulated depreciation provision, respectively, and included herein as follows:

(1) Reusable materials consisting of large individual items shall be included in this account at original cost, estimated if not known. The cost of repairing such items shall be charged to the maintenance account appropriate for the previous use.

(2) Reusable materials consisting of relatively small items, the identity of which (from the date of original installation to the final abandonment or sale thereof) cannot be ascertained without undue refinement in accounting, shall be included in this account at current prices new for such items. The cost of