

Exhibit No.:

Issue(s):

Witness/Type of Exhibit:

Sponsoring Party:

Case No.:

Vegetation Management

Robertson/Surrebuttal

Public Counsel

ER-2008-0318

SURREBUTTAL TESTIMONY

OF

TED ROBERTSON

Submitted on Behalf of
the Office of the Public Counsel

UNION ELECTRIC COMPANY D/B/A AMERENUE

Case No. ER-2008-0318

November 5, 2008

**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)
 Service Provided to Customers in the)
 Company's Missouri Service Area.)


Case No. ER-2008-0318

AFFIDAVIT OF TED ROBERTSON

STATE OF MISSOURI)
) ss
 COUNTY OF COLE)

Ted Robertson, of lawful age and being first duly sworn, deposes and states:

1. My name is Ted Robertson. I am a Public Utility Accountant for the Office of the Public Counsel.
2. Attached hereto and made a part hereof for all purposes is my surrebuttal 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.



 Ted Robertson, C.P.A.
 Public Utility Accountant III

Subscribed and sworn to me this 5th day of November 2008.



JERENE A. BUCKMAN
 My Commission Expires
 August 10, 2009
 Cole County
 Commission #06754036



 Jerene A. Buckman
 Notary Public

My Commission expires August, 2009.

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**SURREBUTTAL TESTIMONY
OF
TED ROBERTSON

UNION ELECTRIC COMPANY
d/b/a AMEREN UE
CASE NO. ER-2008-0318**

10 Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

11 A. Ted Robertson, PO Box 2230, Jefferson City, Missouri 65102-2230.
12

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

14 A. I am employed by the Missouri Office of the Public Counsel (OPC or Public
15 Counsel) as a Public Utility Accountant III.
16

17 Q. WHAT IS THE NATURE OF YOUR CURRENT DUTIES AT THE OPC?

18 A. Under the direction of the OPC Chief Public Utility Accountant, Mr. Russell W.
19 Trippensee, I am responsible for performing audits and examinations of the
20 books and records of public utilities operating within the state of Missouri.
21

22 Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND OTHER
23 QUALIFICATIONS.

24 A. I graduated in May, 1988, from Missouri State University with a Bachelor of
25 Science Degree in Accounting. In November of 1988, I passed the Uniform
26 Certified Public Accountant Examination and I obtained Certified Public

1 Accountant (CPA) certification from the state of Missouri in 1989. My CPA
2 license number is 2004012798.

3
4 Q. HAVE YOU RECEIVED SPECIALIZED TRAINING RELATED TO PUBLIC
5 UTILITY ACCOUNTING?

6 A. Yes. In addition to being employed by the Missouri Office of the Public Counsel
7 since July 1990, I have attended the NARUC Annual Regulatory Studies
8 Program at Michigan State University and I have participated in numerous
9 training seminars relating to this specific area of accounting study.

10
11 Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE MISSOURI PUBLIC
12 SERVICE COMMISSION (COMMISSION OR MPSC)?

13 A. Yes, I have testified on numerous issues before this Commission. Please refer
14 to Schedule TJR-1, attached to this testimony, for a listing of cases in which I
15 have submitted testimony.

16
17 Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

18 A. I will address the rebuttal testimonies of AmerenUE (Company) witness, Mr.
19 Ronald C. Zdellar and MPSC witness, Mr. Daniel I. Beck, regarding their
20 vegetation management expense proposals.

21

1 Q. WHAT IS THE ISSUE?

2 A. Company requests that the Commission authorize it to set its annual vegetation
3 management costs at a level equal to an average of budgeted amounts for 2009
4 and 2010, i.e., these amounts represent the budgeted amounts as of September
5 30, 2008. (Zdellar Rebuttal Testimony page 9, lines 1–2) Company also seeks
6 to implement a cost tracker mechanism similar to the one authorized in Empire
7 District Electric Company, Case No. ER-2008-0093. (Zdellar Rebuttal Testimony
8 beginning page 7, line 12) Whereas, the Missouri Public Service Commission
9 Staff (Staff) recommends that the test year level of vegetation management,
10 updated to reflect the true-up period, be used as the annualized ongoing
11 expense level. (Beck Rebuttal Testimony page 4, lines 23–25)

12

13 Q. DOES STAFF OPPOSE COMPANY'S REQUEST FOR A TRACKER
14 MECHANISM SIMILAR TO THAT AUTHORIZED IN THE RECENT EMPIRE
15 DISTRICT ELECTRIC COMPANY, CASE NO. ER-2008-0093?

16 A. No. However, Staff does propose that a "cap" be placed on the level of costs
17 booked in the tracker. Staff recommends that any excess between the
18 annualized amount included in base rates and \$50,000,000, on an annual basis,
19 be recorded in the tracker for recovery determination in Company's next rate
20 case. (Beck Rebuttal Testimony page 7, lines 10–20)

21

1 Q. WHAT IS THE PUBLIC COUNSEL POSITION ON THIS ISSUE?

2 A. As far as base rates are concerned, Public Counsel believes that Staff's
3 recommendation for the annualized amount is the most reasonable because it is
4 based on known and measureable costs.

5
6 Q. WHY DOES PUBLIC COUNSEL BELIEVE STAFF'S RECOMMENDATION TO
7 BE THE MOST REASONABLE?

8 A. Public Counsel believes that the test year level of expense, updated for the true-
9 up, represents actual incurred expenses rather than budgeted (i.e., estimates)
10 which may never occur. The use of forecasted costs is not appropriate for use in
11 setting rates since the expenses are not known and measureable.

12
13 Q. CAN THE COMPANY DEFINITELY DETERMINE THE LEVEL OF FUTURE
14 EXPENSE IT WILL ACTUALLY INCUR?

15 A. No. While Mr. Zdellar's testimony states that the test year for this case does not
16 represent the level of expense required to implement the new rules he confirms
17 that AmerenUE cannot definitively state what it will cost to comply. (Zdellar
18 Rebuttal Testimony, page 6, lines 5-13)

19

20

1 Q. ARE THERE OTHER REASONS WHY STAFF'S EXPENSE
2 RECOMMENDATION SHOULD BE ADOPTED?

3 A. Yes. Attached to the Direct Testimony of Company witness, Mr. Richard J. Mark,
4 as Schedule RJM-E1, is a Report that represents an "independent" analysis of
5 AmerenUE's storm response practices. The Report was issued in November
6 2007 by KEMA, a consultant hired by Company to perform the analysis. On
7 page 1-3, of the Report, it states,

8
9 AmerenUE's practices in these areas are consistent with industry
10 standards and what is considered good utility practice. However,
11 KEMA also found that the vegetation management program and
12 pole inspections programs prior to the 2006 storms were insufficient
13 due to budget cuts in 2003. AmerenUE was still in the process of
14 ramping up the pole inspection and vegetation management
15 programs at the moment both programs were tested for severe
16 weather events.

17
18 (Emphasis added by OPC)

19
20
21 At least one finding KEMA discusses as to the cause of the severity of the storm
22 damage experienced in the 2006, and likely the 2007 storms, in my opinion, was
23 that Company management implemented budget cuts in 2003. Though the
24 placing of blame, for a least a portion of the problem, does not fix the problem, it
25 is indicative that the Company itself is at least partially responsible for the
26 incurrence of the expenses it now seeks to recover from ratepayers.

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Q. ARE THERE ANY OTHER INTERESTING ITEMS IDENTIFIED IN THE KEMA REPORT?

A. Yes. The Report includes two graphs that identify vegetation management expense incurred by Company during years 2001 through 2007. The bar graph on page 3-19, Exhibit 3-14, shows the trend in vegetation management budget and spend. The graph shows that the budget low point for the period was 2003 with a gradual ramping-up for 2004 through 2006. In 2006 the actual vegetation management expense for transmission and distribution approximated \$33 to \$34 million. For the same year storm expense approximates \$13 to \$14. While the bar graph on page 5-5, Exhibit 5-4, shows the vegetation expenditures projected for 2007 at approximately \$46 for actual transmission and distribution expenses and approximately \$8 million for storm expense. What this describes is that the actual budgeted expense increased from approximately \$25 million in 2003 to approximately \$45 to \$46 million in 2007 as a result of the ramping-up implemented by Company and the Stipulation and Agreement reached in AmerenUE, Case No. ER-2007-0002.

1 Q. WHAT WAS THE VEGETATION MANAGEMENT AGREEMENT REACHED BY
2 THE PARTIES IN AMERENUE, CASE NO. ER-2007-0002?

3 A. In AmerenUE, Case No. ER-2007-0002, the Commission authorized a Stipulation
4 and Agreement that stated,

5

6 A. Staff will recognize the full \$45 million of vegetation
7 management expenses in the cost of service...

8

9

10 The increase in vegetation management expense allowed in the case was
11 significant when compared to prior years expense incurred (i.e., nearly double
12 the amount spent as recently as 2003 according to the Direct Testimony of
13 Company Witness, Mr. Richard J. Mark, page 10, lines 16-17).

14

15 Q. WHAT WAS THE AMOUNT OF VEGETATION MANAGEMENT EXPENSE
16 BOOKED IN THE INSTANT CASE TEST YEAR?

17 A. According to Company witness, Mr. Gary S. Weiss, Supplemental Direct
18 Testimony, page 20, lines 8-9, it was \$45,663,000.

19

20

1 Q. IS IT YOUR BELIEF THAT COMPANY MANAGEMENT IS MANAGING THE
2 AMOUNTS EXPENDED SO THAT ACTUALS APPROXIMATE THE AMOUNT
3 AUTHORIZED IN AMERENUE, CASE NO. ER-2007-0002?

4 A. Yes. Based on the amounts I've reviewed, I believe that to be an obvious
5 conclusion.

6 Q. SHOULD WE BEGIN SEEING A REDUCTION IN FUTURE STORM RELATED
7 EXPENSE DUE TO THE CURRENT RAMP-UP IN VEGETATION
8 MANAGEMENT ACTIVITIES?

9 A. Yes. That would be a reasonable deduction in my opinion.

10

11 Q. ARE STORM RELATED EXPENSES INCLUDED IN THE VEGETATION
12 MANAGEMENT ANNUALIZED AMOUNT CURRENTLY INCLUDED IN BASE
13 RATES?

14 A. Not to my knowledge. In AmerenUE, Case No. ER-2007-0002, the same
15 Stipulation and Agreement that led to the authorization of the \$45 million
16 vegetation management expense also allowed a separate provision to allow an
17 adjustment to amortize test year storm expense via a five-year amortization.

18

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1 Q. BASED ON YOUR REVIEW OF THE ISSUE WHAT DO YOU RECOMMEND?

2 A. First, it is obvious to me that the Company is expending a level of vegetation
3 management expense that is approximately equal to the amount authorized for
4 base rates in AmerenUE, Case No. ER-2007-0002. Second, I believe that the
5 ramp-up in vegetation management expenditures in recent years should help to
6 yield lower storm related expenses in future years; however, because the ramp-
7 up in expense has only recently occurred I do not think we have seen all the
8 benefits it should yield. Finally, the historical annualized expense recommended
9 by Staff is reasonable because it appears that no matter what level of expense
10 the Commission authorizes for base rates the Company will find a way to spend
11 the monies. I do not believe that just "throwing" money at the Company is a
12 prudent way to address the situation. A more plausible method would be to let
13 the current increase that is already included in base rates effectuate the changes
14 needed while closely monitoring the Company's progress. I believe that Staff's
15 reliance on the current historical expense level moves the Company in that
16 direction at a reasonable pace.

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1 Q. DOES PUBLIC COUNSEL BELIEVE THAT COMPANY NEEDS TO CHANGE
2 ITS CURRENT VEGETATION MANAGEMENT TRACKER TO ONE SIMILAR TO
3 EMPIRE DISTRICT ELECTRIC COMPANY'S?

4 A. No. In general, I believe that the use of tracker mechanisms subvert the
5 regulatory rate model process and should be used in very limited instances.
6 However, if a tracker mechanism is to be authorized, I believe that the Company
7 currently has a tracker mechanism in place that can account for the vegetation
8 management expense it incurs. As described by Mr. Zdellar, in the last rate case
9 AmerenUE agreed to a tracker mechanism that, I believe, set reasonable
10 requirements insuring that the costs included in rates were actually expended for
11 vegetation management purposes on a year to year basis. (Zdellar Rebuttal
12 Testimony, page 8, lines 5-9)

13
14
15 Q. WHY DO YOU BELIEVE THE USE OF TRACKER MECHANISMS SHOULD BE
16 LIMITED?

17 A. Tracker mechanisms, if used at all, should be utilized on a limited basis because
18 they have the effect of either increasing or decreasing a utility's earnings for a
19 prior period by increasing or decreasing revenues in future periods. The process
20 violates the accounting and regulatory ratemaking "matching principle" by
21 distorting the comparison of revenues, rate base return and expenses for each

1 accounting period subject to the terms of the tracker. They also have the effect
2 of inappropriately manipulating a utility's business risk. In instances where costs
3 are carried over for recovery in future years business risk is reduced without any
4 offsetting compensation mechanism that recognizes the reduced business risk
5 and vice versa for the reciprocal position.

6
7 However, most important of all is that fact that a tracker mechanism guarantees a
8 utility that all costs incurred will eventually be included in its cost of service and
9 base rates. This subversion of the regulatory ratemaking model has at least two
10 major detrimental effects. First, to one degree or another, it relieves the utility's
11 management of some responsibility to appropriately manage the costs it incurs.
12 Of course, a utility's management will promise and profess their undying fidelity
13 to ratepayers and financial responsibilities to shareholders to gain the benefits a
14 tracker provides, but in the end a guarantee of including the deferred expense in
15 base rates versus the normal regulatory ratemaking process of subjecting all
16 expenses to ongoing prudence reviews can have a sobering impact on actual
17 management actions. Secondly, the regulatory ratemaking process in this State
18 is a surrogate competitive process for monopoly utilities. The guarantee of base
19 rate recovery that a tracker provides inappropriately shortcuts the "competitive"
20 actions that the regulations and rules of the regulatory ratemaking process were
21 setup to provide. In a normal situation, a utility has the burden of proof to

1 convince the Commission to authorize revenues sufficient to provide for all costs
2 in each and every general rate increase case. If the costs under review are
3 authorized for base rate inclusion, the utility is then allowed the "opportunity," but
4 not the "guarantee" to earn a return on equity after paying all other costs (which
5 are impacted by the future actions of its management and operations). Trackers
6 eliminate a real incentive to manage costs in real time and are not consistent with
7 a competitive market. In essence, trackers circumvent the regulatory
8 competition supplied by the normal ratemaking process by eliminating the utility's
9 burden to "prove," in every general rate increase case, the costs for which it
10 seeks recovery.

11
12 Q. DOES MR. ZDELLAR'S REQUEST SEEK OTHER ADDITIONAL COST
13 RECOVERIES?

14 A. Yes. In his Rebuttal Testimony, page 9, lines 10-22, he asks that the
15 Commission allow it to: 1) begin amortizing over three years the actual
16 incremental amount spent in order to comply with the vegetation management
17 and infrastructure rules between January 1, 2008 and September 30, 2008; and
18 2) grant it accounting authorization for costs that are incurred in excess of the
19 costs included in current rates for the period October 2008 through February 23,
20 2009.

1 Q. DOES PUBLIC COUNSEL BELIEVE THE COMMISSION SHOULD APPROVE
2 COMPANY'S REQUEST FOR RECOVERY AND ACCOUNTING
3 AUTHORIZATION OF THE OTHER ADDITIONAL COSTS?

4 A. No. Essentially, the two items he describes in the request represent an attempt
5 on Company's part to obtain recovery authorization of costs that may exceed the
6 annualized cost included in current rates during the period January 1, 2008
7 through the effective law date of this general rate increase case. His request
8 masks the real financial impact of the proposal which is to recover from future
9 ratepayers earnings that may have not been realized in the past due to changes
10 in cost levels. Public Counsel does not believe that the request for recovery (or
11 future recovery) of such costs is reasonable or appropriate.

12
13 Q. PLEASE EXPLAIN WHY PUBLIC COUNSEL IS OPPOSED TO COMPANY'S
14 REQUESTS FOR THE OTHER ADDITIONAL COSTS.

15 A. Public Counsel is opposed to the requests for a couple of reasons. For one, in
16 Company's last general rate increase case AmerenUE was a party to a
17 Stipulation and Agreement that increased the annualized cost for vegetation
18 management to the current base rate level. As such, I believe, the parties to the
19 Stipulation and Agreement contemplated that the new base rates would remain
20 in effect until the next authorized rate change occurred. It did not permit
21 Company to supplement its future revenue stream by seeking Commission

1 authorization for recovery of incremental costs incurred before a new rate change
2 is implemented. In fact, I believe, Mr. Zdellar's Rebuttal Testimony supports this
3 position. On page 5, lines 6-9, he states,
4

5 In its last rate case AmerenUE agreed to a one-way tracking
6 mechanism to operate until a new rate case is concluded. Under
7 that tracker, if AmerenUE does not spend the target amount, it must
8 make the amount up in the next year. If it spends more than the
9 target amount, it does not lessen the target requirement for the next
10 year.
11
12

13 Since the tracker was a one-way mechanism, noticeably absent is any reference
14 to any agreement for future cost of service recovery of costs incurred that exceed
15 the stipulated amount included in base rates for the periods that the rates are in
16 effect. Company's request for recovery of these other additional costs, if
17 authorized, would violate the intent and terms of the Stipulation and Agreement
18 to which the Company was an active party.
19
20

21 Q. PLEASE CONTINUE.

22 A. To some degree the Company's request is a moot point. Staff's recommendation
23 includes language that states it intends to update its annual cost level
24 accordingly for activities that occur through the end of the true-up date for the

1 instant case. Since the true-up date ends September 30, 2008, Company's
2 request to begin amortizing over 3 years the actual incremental amount spent in
3 order to comply with the vegetation management and infrastructure rules
4 between January 1, 2008 and September 30, 2008 appears unnecessary.

5
6 Q. DOES THE PORTION OF THE OTHER ADDITIONAL COSTS FOR WHICH
7 COMPANY IS REQUESTING ACCOUNTING AUTHORIZATION REPRESENT
8 ALLEGED AMOUNTS WHICH FALL OUTSIDE THE TRUE-UP PERIOD OF THE
9 INSTANT CASE?

10 A. Yes. The Company's request is to grant it accounting authorization for costs that
11 are incurred in excess of the costs included in current rates for the period
12 October 2008 through February 23, 2009. The timeframe Company identifies
13 falls outside the September 30, 2008 true-up period for the instant case;
14 therefore, the costs, if they occur at all, will not be subject to audit in the instant
15 case.

16
17 Q. HAS COMPANY PROVIDED ANY EVIDENCE THAT THE ALLEGED
18 INCREMENTAL COSTS ARE ACTUALLY BEING INCURRED?

19 A. No. The only support for Company's position, that I'm aware of, is where Mr.
20 Zdellar states in his Rebuttal Testimony, page 9, line 20, "compliance costs have
21 been and will continue to be incurred between rate cases;" however, as I

1 | discussed in the previous Q&A no actual incremental costs have been identified
2 | as being incurring during the period. The obvious reason being that at the time
3 | he was preparing and filing his rebuttal testimony the timeframe requested for the
4 | deferral had barely begun.

5 |
6 | Q. SHOULD THE COMMISSION ALLOW THE ACCOUNTING AUTHORIZATION
7 | DEFERRAL OF UNSUPPORTED COSTS?

8 | A. No. Even though the Company is not seeking ratemaking treatment of the alleged
9 | costs in the current case, it has not provided, in my opinion, sufficient support that
10 | current rates are not allowing it the opportunity to recover the level of costs it is
11 | actually incurring. Since there is no evidence that the incremental costs he
12 | alleges even exist, they are not known or measurable. Plus, as I discussed
13 | earlier, the current vegetation management tracker which is in effect until new
14 | rates are authorized does not specify that incremental costs, should they occur,
15 | can be deferred for future recovery. Thus, Company's request for an accounting
16 | authorization for deferral should be denied.

17 |
18 | Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?

19 | A. Yes, it does.
20 |

**CASE PARTICIPATION
OF
TED ROBERTSON**

<u>Company Name</u>	<u>Case No.</u>
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
Union Electric Company	EO-96-14
Union Electric Company	EM-96-149
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
United Water Missouri Inc.	WR-99-326
Laclede Gas Company	GR-99-315
Missouri Gas Energy	GO-99-258
Missouri-American Water Company	WM-2000-222
Atmos Energy Corporation	WM-2000-312
UtiliCorp/St. Joseph Merger	EM-2000-292
UtiliCorp/Empire Merger	EM-2000-369
Union Electric Company	GR-2000-512
St. Louis County Water Company	WR-2000-844
Missouri Gas Energy	GR-2001-292
UtiliCorp United, Inc.	ER-2001-672
Union Electric Company	EC-2002-1
Empire District Electric Company	ER-2002-424

**CASE PARTICIPATION
OF
TED ROBERTSON**

<u>Company Name</u>	<u>Case No.</u>
Missouri Gas Energy	GM-2003-0238
Aquila Inc.	EF-2003-0465
Aquila Inc.	ER-2004-0034
Empire District Electric Company	ER-2004-0570
Aquila Inc.	EO-2005-0156
Aquila, Inc.	ER-2005-0436
Hickory Hills Water & Sewer Company	WR-2006-0250
Empire District Electric Company	ER-2006-0315
Central Jefferson County Utilities	WC-2007-0038
Missouri Gas Energy	GR-2006-0422
Central Jefferson County Utilities	SO-2007-0071
Aquila, Inc.	ER-2007-0004
Laclede Gas Company	GR-2007-0208
Kansas City Power & Light Company	ER-2007-0291
Missouri Gas Utility, Inc.	GR-2008-0060
Empire District Electric Company	ER-2008-0093
Missouri Gas Energy	GU-2007-0480
Stoddard County Sewer Company	SO-2008-0289
Missouri-American Water Company	WR-2008-0311
Union Electric Company	ER-2008-0318