Exhibit No.:	
Issue(s):	Fuel Adjustment Clause
Witness:	James R. Dauphinais
Type of Exhibit:	Sur-Sur-Surrebuttal Testimony
Sponsoring Party:	Missouri Industrial Energy Consumers
Case No.:	ER-2012-0166
Date Testimony Prepared:	September 28, 2012

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

	)	
In the Matter of Union Electric Company,	)	**Case No. ER-2012-0166**
d/b/a Ameren Missouri's Tariff to Increase	)	Tariff No. YE-2012-0370
Its Annual Revenues for Electric Service	)	
	)	

Sur-Sur-Surrebuttal Testimony of

James R. Dauphinais

Fuel Adjustment Clause

On behalf of

Missouri Industrial Energy Consumers

NON-PROPRIETARY VERSION

September 28, 2012

BRUBAKER & ASSOCIATES, INC.

Project 9553

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Union Electric Company, d/b/a Ameren Missouri's Tariff to Increase Its Annual Revenues for Electric Service	)	**Case No. ER-2012-0166** Tariff No. YE-2012-0370

STATE OF MISSOURI)
) **SS**
COUNTY OF ST. LOUIS)

Affidavit of James R. Dauphinais

James R. Dauphinais, being first duly sworn, on his oath states:

1. My name is James R. Dauphinais. I am a consultant with Brubaker & Associates, Inc., having its principal place of business at 16690 Swingley Ridge Road, Suite 140, Chesterfield, Missouri 63017. We have been retained by the Missouri Industrial Energy Consumers in this proceeding on their behalf.

2. Attached hereto and made a part hereof for all purposes is my sur-sur-surrebuttal testimony, which was prepared in written form for introduction into evidence in Missouri Public Service Commission Case No. ER-2012-0166.

3. I hereby swear and affirm that the testimony is true and correct and that it shows the matters and things that they purport to show.

James R. Dauphinais
James R. Dauphinais

Subscribed and sworn to before me this 27th day of September, 2012.

MARIA E. DECKER
Notary Public - Notary Seal
STATE OF MISSOURI
St. Louis City
My Commission Expires: May 5, 2013
Commission # 09706793

Maria E. Decker
Notary Public

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Union Electric Company, d/b/a Ameren Missouri's Tariff to Increase Its Annual Revenues for Electric Service	)))))	**Case No. ER-2012-0166** Tariff No. YE-2012-0370

Table of Contents to the
<u>Sur-Sur-Surrebuttal Testimony of James R. Dauphinais</u>

<u>Page</u>

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Union Electric Company, d/b/a Ameren Missouri's Tariff to Increase Its Annual Revenues for Electric Service	)))))	**Case No. ER-2012-0166** Tariff No. YE-2012-0370

<u>Sur-Sur-Surrebuttal Testimony of James R. Dauphinais</u>

<u>I. INTRODUCTION</u>

Q PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A James R. Dauphinais. My business address is 16690 Swingley Ridge Road, Suite 140, Chesterfield, MO 63017.

Q ARE YOU THE SAME JAMES R. DAUPHINAIS WHO HAS PREVIOUSLY FILED DIRECT "REVENUE REQUIREMENT" TESTIMONY AND SURREBUTTAL "REVENUE REQUIREMENT AND FUEL ADJUSTMENT CLAUSE" TESTIMONY ON BEHALF OF THE MISSOURI INDUSTRIAL ENERGY CONSUMERS ("MIEC") IN THIS PROCEEDING?

A Yes.

Q WHAT IS THE SUBJECT OF YOUR SURREBUTTAL TESTIMONY?

A My sur-sur-surrebuttal testimony addresses the sur-surrebuttal testimony of Union Electric Company ("Ameren Missouri" or "Company") witness Jaime Haro related to Ameren Missouri's proposal that it be permitted to establish a deferred transmission expenses and revenues tracker if the Commission chooses to disallow the inclusion of certain transmission expenses in Ameren Missouri's Net Base Fuel Cost ("NBFC") value and Fuel Adjustment Clause ("FAC"). The fact that I do not address any particular issue raised by Mr. Haro in his sur-surrebuttal testimony should not be interpreted as approval of any position taken by the Company in Mr. Haro's sur-surrebuttal testimony.

Q PLEASE SUMMARIZE YOUR SUR-SUR-SURREBUTTAL TESTIMONY CONCLUSIONS AND RECOMMENDATIONS.

A I recommend that the Commission reject Ameren Missouri's proposed deferred transmission expenses and revenues tracker and grant my surrebuttal testimony recommendation that all long-term transmission expenses[1] be removed from Ameren Missouri's NBFC value and FAC. These expenses would remain in base rates under my recommendation. They would only be moved from the NBFC portion of base rates to the non-NBFC portion of base rates.

II. TRANSMISSION TRACKER

Q PLEASE DESCRIBE THE COMPANY'S PROPOSAL TO ESTABLISH A TRANSMISSION TRACKER.

A In my surrebuttal testimony, I responded to the rebuttal testimony of Mr. Haro regarding the inclusion of certain transmission expenses within Ameren Missouri's proposed NBFC value and FAC. My response to Mr. Haro discussed the discovery by Staff and myself that Ameren Missouri has, contrary to the plain language of its FAC tariff, been including transmission expenses in its proposed NBFC values and FAC that are above and beyond the short-term transmission charges that are

[1]By long-term transmission expenses, I mean Account 565 Transmission by Others expenses associated with transmission service of a term greater than one year.

incurred by the Company to support its off-system sales and purchases. I recommended that the Commission:

- Clarify that no charges associated with the long-term provision of transmission service to Ameren Missouri, including, but not limited, to network transmission service taken from MISO to serve Ameren Missouri's network load, may be included in the Company's NBFC value or recovered through the Company's FAC; and

- Require the Company to remove all long-term transmission service charges, including, but not limited to, MISO Schedule 26 and 26-A charges assessed for Ameren Missouri's network load, from the Company's NBFC value.

(Dauphinais Surrebuttal at 3, 17, 18 and 20)

In his sur-surrebuttal testimony, Mr. Haro responded to my recommendation and attempted to defend the Company's inclusion of long-term transmission charges in its NBFC value and FAC. In addition, he recommended that, if the Commission were to determine it is not appropriate to include long-term transmission charges in the FAC, the Commission should grant a transmission cost and revenue tracker mechanism ("Transmission Tracker") for these charges.

The Transmission Tracker would track the difference between Ameren Missouri's actual amount of transmission expenses and revenues and the amount of transmission expenses and revenues included in the base rates set by the Commission in this proceeding. This difference would be carried on a deferred basis and then reconciled in Ameren Missouri's next base rate proceeding. The deferred amount would be amortized over five years and the unamortized balance be included in rate base (Haro Sur-Surrebuttal at 23 through 26).

Q HOW DO YOU RESPOND TO THE COMPANY'S PROPOSAL TO ESTABLISH A TRANSMISSION TRACKER?

A I recommend the Commission deny the Company's request to establish a Transmission Tracker. In general, the use of a tracker, be it a tracker that automatically adjusts rates between base cases (such as an FAC) or a tracker that only adjusts at the time of the next base rate case, should not be allowed for two paramount reasons.

First, the use of a tracker allows a utility to pursue single-issue ratemaking, which is bad policy and I understand could be illegal. Under single-issue ratemaking, a utility can receive additional revenue in rates due to either an increase in a tracked expense or decrease in a tracked revenue without any consideration of whether that utility would simultaneously be receiving offsetting decreases in expenses or offsetting increases in revenues for those expenses and revenues that are not being tracked. To put it more simply, allowing a tracker can break the synchronism between revenues, expenses and rate base leading to a utility over-recovering its costs.

Second, the use of a tracker eliminates the inherent incentive a utility has to minimize expenses and maximize revenues between base rate proceedings, which over time works to keep electric rates lower than they otherwise would be. When a utility is allowed to track an expense, it can become indifferent with regard to minimizing that expense since it knows it will not need to file a new base rate case in order to recover any increases in that expense. Similarly, when a utility is allowed to track a revenue, it can become indifferent with regard to maximizing that revenue since it knows that it will not need to file a base rate case in order to recover any shortfall in that revenue.

Q PUTTING ASIDE WHETHER IT IS LEGALLY PERMISSIBLE TO ESTABLISH A TRANSMISSION TRACKER LIKE THAT PROPOSED BY THE COMPANY, WHAT SHOULD BE REASONABLY DEMONSTRATED IN ORDER FOR A UTILITY TO SHOW IT HAS A NEED FOR A TRACKER?

A The utility needs to show that the changes to the expense or revenue in question is:

- Are large enough to present a threat to the financial well being of the utility;
- Volatile; <u>and</u>
- Cannot be reasonably managed by the utility.

Q DO THE TRANSMISSION EXPENSES AND REVENUES THE COMPANY WOULD LIKE TO TRACK THROUGH ITS PROPOSED TRANSMISSION TRACKER MEET THESE THREE PREREQUISITES?

A No. Ameren Missouri has not shown the changes anticipated for its transmission expenses and transmission revenues between now and the anticipated time of Ameren Missouri's next base rate proceeding are very large, volatile or incapable of being managed by the Company -- never mind all three.

<u>A. Magnitude of Costs</u>

Q PLEASE EXPLAIN WHY YOU HAVE CONCLUDED THE CHANGES ANTICIPATED FOR AMEREN MISSOURI'S TRANSMISSION EXPENSES AND REVENUES ARE NOT VERY LARGE BETWEEN NOW AND THE ANTICIPATED TIME OF AMEREN MISSOURI'S NEXT BASE RATE PROCEEDING.

A The Company's estimate of its total transmission expenses at the July 31, 2012 end of the true-up period in this proceeding is approximately $25.9 million. The Company has provided projections for these annual expenses to grow to approximately $29.3 million (or by $3.4 million) by the end of 2013 and then to approximately $35.9 million (or by another $6.6 million) by the end of 2014 (Haro Sur-Surrebuttal at 8). The Company has consistently filed rate cases in four of the past five years. It is well within the control of the Company to continue to file frequent base rate cases and based on its recent performance and statements, there is no reason to believe it will not make yet another base rate relief filing by early 2014. A $3.4 million increase in transmission expenses by the end of 2013 and another $6.6 million by the end of 2014 is miniscule in comparison to the total revenue requirement increase the Company has requested in this proceeding. The challenge the projected transmission expense increases present to the financial health of the Company is de minimis. These anticipated changes do not rise to a magnitude that justifies them being tracked through a Transmission Tracker.

In addition, Mr. Haro has provided no evidence whatsoever with regard to how the Company's offsetting transmission revenues are anticipated to change over the next two to four years. We do know the Company's transmission revenues at the July 31, 2012 end of the true-up period are higher than the Company's transmission expenses by approximately **___________**. However, Mr. Haro has presented no evidence that changes of a very large magnitude are anticipated for transmission revenues over the next two to four years.

In sum, Ameren Missouri have not demonstrated the anticipated change in transmission expenses and transmission revenues between now and the next time it is expected to file a base rate case is of a magnitude large enough to justify its proposed Transmission Tracker.

B. Volatility

Q PLEASE EXPLAIN WHY YOU HAVE CONCLUDED THAT THE CHANGES ANTICIPATED FOR AMEREN MISSOURI'S TRANSMISSION EXPENSES AND REVENUES ARE NOT VOLATILE.

A Volatile costs and revenues are costs and revenues that can very rapidly and unexpectedly increase and/or decrease by very large amounts. Contrary to Mr. Haro's assertion on page 9 of his sur-surrebuttal testimony, costs that are projected to substantially increase year-to-year are not an indication of volatility. Examples of volatility include rapid swings in spot and forward prices for commodities such as wholesale electric energy, natural gas and fuel oil. The market prices for these commodities can swing widely and unexpectedly. The transmission expenses and revenues in question for the Company's proposed Transmission Tracker are not of this nature.

The projected increases in the Company's transmission expenses are overwhelmingly related to providing contribution to the revenue requirement for the capital costs associated with transmission construction for Base Reliability Projects ("BRP"), Market Efficiency Projects ("MEP") and Multi-Value Projects ("MVP") that have been planned and authorized through the MISO Transmission Expansion Plan ("MTEP"). They are fundamentally no different in nature than the capital costs the Company incurs for the non-regional transmission projects it constructs itself.

While it cannot be said the anticipated transmission expense increases are known and measurable for ratemaking purposes, they are certainly reasonably projectable. The uncertainty associated with them is primarily related to the efficiency of project management, the risk of unanticipated modifications necessary for regulatory compliance (e.g., use of monopoles in some areas versus lattice towers, required avoidance of certain areas, etc.), the cost of labor and the cost of construction materials. While there can be significant variation from the original projected costs for such projects, a well managed project will be able to provide significant advance warning of future cost increases well before they are incurred. This is completely unlike the uncertainties associated with purchasing or selling commodities such as wholesale electric energy, natural gas and fuel oil. The increasing transmission expenses for regional MISO transmission projects are a hill to climb in daylight, not a roller coaster ride in darkness.

With regard to transmission revenues, as I noted earlier, Mr. Haro has provided no evidence with regard to how those revenues are expected to change over the next two to four years. Thus, the Company cannot possibly claim at this point that the changes in those revenues will be volatile. To conclude with regard to volatility, the Company has not reasonably demonstrated its transmission expenses and revenues over the next two to four years will be volatile.

C. Manageability of Costs

Q PLEASE EXPLAIN WHY YOU HAVE CONCLUDED THAT CHANGES TO THE COMPANY'S TRANSMISSION EXPENSES AND REVENUE ARE NOT UNMANAGEABLE ENOUGH TO REASONABLY JUSTIFY THE COMPANY'S PROPOSED TRANSMISSION TRACKER.

A There are significant avenues available to the Company to manage its anticipated increase in transmission expenses. First and foremost, it has the opportunity as a stakeholder in MISO's MTEP process to help ensure the BRP, MEP and MVP transmission projects that are planned and ultimately pursued by MISO are consistent with providing reliable electric service at the lowest reasonable cost to its ratepayers.

It can also participate in the MISO stakeholder process to help ensure MISO carefully monitors BRP, MEP and MVP transmission construction to ensure that construction by transmission owners is being pursued in an efficient and reasonable fashion.

Second, the Company can participate in the MISO MTEP stakeholder process to ensure previously authorized BRP, MEP and MVP projects are still needed and still consistent with providing reliable electric service to the Company's ratepayers at lowest reasonable cost. If previously authorized BRP, MEP and/or MVP projects are no longer needed or otherwise no longer consistent with providing reliable electric service at lowest reasonable cost, the Company can actively advocate for cancellation of such projects before unnecessary costs are incurred. Third, the Company can take action before the Federal Energy Regulatory Commission ("FERC") against MISO and/or transmission owners to the extent it is unsuccessful in getting relief in the MISO stakeholder process. It can also take action at FERC to challenge the reasonableness of transmission rates proposed by MISO, MISO transmission owners and non-MISO transmission providers. This also includes challenging the reasonableness of updates to the inputs of formula transmission rates including the prudency of the construction costs a transmission owner is trying to roll into its transmission rates.

Fourth, to the extent the Company itself is constructing of MISO BRP, MEP or MVP transmission project, such as the Lutesville to Heritage transmission project, the Company can directly act to reasonably and prudently manage its transmission construction costs. Finally, as I have previously discussed, the increasing costs are not volatile. They are sufficiently predictable for the Company to consider them in its financial and rate planning.

In sum, the Company has many avenues available to it to help manage its anticipated increase in transmission expenses. The Company has not reasonably shown its anticipated increases in transmission expenses and transmission revenues are sufficiently unmanageable to justify the Company's proposed Transmission Tracker. Granting the Company's proposal will significantly reduce the incentive for the Company to avail itself of the avenues it has the opportunity to use to manage these costs.

Q UNDER THE COMPANY'S PROPOSAL, THE COMPANY WOULD LIKELY BE SUBJECT TO PRUDENCE REVIEW OF TRACKED TRANSMISSION EXPENSES AND TRANSMISSION REVENUES. PLEASE EXPLAIN WHY THAT DOES NOT ALONE PROVIDE SUFFICIENT INCENTIVE FOR THE COMPANY TO USE ITS AVAILABLE TOOLS TO MANAGE THESE EXPENSES AND REVENUES.

A Prudence requires the Company to perform actions reasonably based on the information known, or knowable, at the time the decision was made. It holds utility management accountable for the actions taken in light of circumstances and facts known, or knowable, at the time. However, a utility that has been found prudent may not have necessarily been aggressively pursuing ways to lower the cost of its reliable provision of electric power to its ratepayer. Furthermore, imprudence by a utility can be very difficult to demonstrate. For these reasons, it is very important that a utility have other monetary incentives to provide reliable electric service at the lowest cost possible. Tracking particular expenses and revenues between base rate proceedings eliminates the natural monetary incentive a utility has to aggressively pursue cost savings between base rate proceedings. Such aggressive pursuit of cost savings between base rate proceeding has the effect over time of lowering the utility's rates for customers versus what they otherwise would be.

III. CONCLUSION

Q PLEASE SUMMARIZE YOUR SUR-SUR-SURREBUTTAL TESTIMONY CONCLUSIONS AND RECOMMENDATIONS.

A I recommend that the Commission reject Ameren Missouri's proposed deferred transmission expenses and revenues tracker and grant my surrebuttal testimony recommendation that all long-term transmission expenses[2] be removed from Ameren Missouri's NBFC values and FAC. These expenses would remain in base rates under my recommendation. They would only be moved from the NBFC portion of base rates to the non-NBFC portion of base rates.

Q DOES THIS CONCLUDE YOUR SUR-SUR-SURREBUTTAL TESTIMONY?

A Yes, it does.

\\Doc\Shares\ProlawDocs\MED\9553\Testimony-BAI\226420.docx

[2]By long-term transmission expenses, I mean Account 565 transmission by others expenses associated with transmission service of a term greater than one year.