

# EXHIBIT

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To Participate in MISO  
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EO-2011-0128

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## REBUTTAL TESTIMONY OF RYAN KIND

Submitted on Behalf of  
the Office of the Public Counsel

UNION ELECTRIC COMPANY  
D/B/A AMEREN MISSOURI

DPC Exhibit No. 11  
Date 2-9-12 Reporter JL  
File No. EO-2011-0128

Case No. EO-2011-0128

September 14, 2011

**REBUTTAL TESTIMONY**  
**OF**  
**UNION ELECTRIC COMPANY**  
**CASE NO. EO-2011-0028**

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

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

4 **Q. PLEASE SUMMARIZE YOUR EDUCATIONAL AND EMPLOYMENT BACKGROUND.**

5 A. I have a B.S.B.A. in Economics and a M.A. in Economics from the University of  
6 Missouri-Columbia (UMC). While I was a graduate student at UMC, I was employed as  
7 a Teaching Assistant with the Department of Economics, and taught classes in  
8 Introductory Economics, and Money and Banking, in which I served as a Lab Instructor  
9 for Discussion Sections.

10 My previous work experience includes several years of employment with the Missouri  
11 Division of Transportation as a Financial Analyst. My responsibilities at the Division of  
12 Transportation included preparing transportation rate proposals and testimony for rate  
13 cases involving various segments of the trucking industry. I have been employed as an  
14 economist at the Office of the Public Counsel (Public Counsel or OPC) since 1991.

15 **Q. HAVE YOU TESTIFIED PREVIOUSLY BEFORE THIS COMMISSION?**

16

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1 A. Yes, prior to this case I submitted written testimony in numerous gas rate cases, several  
2 electric rate design cases and rate cases, as well as other miscellaneous gas, water,  
3 electric, and telephone cases.

4 **Q. HAVE YOU PROVIDED COMMENTS OR TESTIMONY TO OTHER REGULATORY OR**  
5 **LEGISLATIVE BODIES ON THE SUBJECT OF UTILITY REGULATION AND**  
6 **RESTRUCTURING?**

7 A. Yes, I have provided comments and testimony to the Federal Energy Regulatory  
8 Commission (FERC), the Missouri House of Representatives Utility Regulation  
9 Committee, the Missouri Senate's Commerce & Environment Committee and the  
10 Missouri Legislature's Joint Interim Committee on Telecommunications and Energy.

11 **Q. HAVE YOU BEEN A MEMBER OF, OR PARTICIPANT IN, ANY WORK GROUPS,**  
12 **COMMITTEES, OR OTHER GROUPS THAT HAVE ADDRESSED ELECTRIC AND GAS UTILITY**  
13 **REGULATION AND POLICY ISSUES?**

14 A. Yes. I am currently a member of the National Association of State Consumer Advocates  
15 (NASUCA) Electric Committee, and the Stakeholder Steering Committee (SSC) of the  
16 Eastern Interconnection Planning Collaborative (EIPC). I have served on the Missouri  
17 Department of Natural Resources Weatherization Policy Advisory Committee, as the  
18 public consumer group representative to the Midwest ISO's (MISO's) Advisory  
19 Committee and as the small customer representative on both the NERC Operating  
20 Committee and the NERC Standards Authorization Committee. During the early 1990s, I  
21 served as a Staff Liaison to the Energy and Transportation Task Force of the President's  
22 Council on Sustainable Development.  
23

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1 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

2 A. The purpose of my rebuttal testimony is to address the amended application of the Union  
3 Electric Company (UE or the Company) for authority to continue the transfer of  
4 functional control of its transmission system to MISO.

5 **Q. WHAT STANDARD OR CRITERIA WILL THE COMMISSION USE TO DETERMINE WHETHER**  
6 **THE AMENDED APPLICATION SHOULD BE APPROVED?**

7 A. Counsel advises me that, in order to approve the amended application, the Commission  
8 must determine that the continuing the transfer of functional control of UE's transmission  
9 system to MISO under the terms and conditions in the amended application (or with  
10 terms and conditions as modified by the Commission) is not detrimental to the public  
11 interest.

12 **Q. HAVE UE WITNESSES FILED TESTIMONY TO SUPPORT THIS AMENDED APPLICATION?**

13 A. To an extent. One UE witness, Ajay Arora filed direct testimony supporting some  
14 aspects of the amended application.

15 **Q. PLEASE SUMMARIZE THE EVIDENCE THAT MR. ARORA PROVIDES IN HIS DIRECT**  
16 **TESTIMONY TO SUPPORT UE'S AMENDED APPLICATION?**

17 A. Mr. Arora describes the cost benefit study that UE performed to assess the expected net  
18 benefits of UE's continued participation in MISO in 2012, 2013, and 2014. UE's study  
19 found that the net benefits of continued participation over this three-year period  
20 are projected to have a net present value of approximately \$105 million.

1       **Q.     DO YOU HAVE ANY MAJOR DISAGREEMENTS WITH THESE UPDATED COST BENEFIT**  
2       **STUDY RESULTS?**

3       **A.**     The only major concern I have is the inclusion of the reduction in UE's share of MISO  
4       administrative costs associated with Entergy possibly becoming a member of MISO.  
5       Including these cost reductions at this point in time is somewhat speculative since  
6       Entergy still needs approval from state commissions, including the Arkansas  
7       Public Service Commission, before it can become a member of MISO.

8       **Q.     HOW DOES UE'S AMENDED APPLICATION IN THIS CASE DIFFER FROM ITS INITIAL**  
9       **APPLICATION IN THIS CASE?**

10      **A.**     UE's initial application sought approval of terms and conditions for continued  
11      participation in MISO that were generally consistent with the terms and conditions in the  
12      Stipulation and Agreement that was approved by the Commission in Case No. EO-2008-  
13      0134. The amended application requests approval under terms and conditions that  
14      vary substantially from the terms and conditions in that Stipulation and Agreement.  
15      The most striking difference is that the approval is no longer interim and limited to a  
16      specific period of time, so UE would no longer have the burden of showing, prior to the  
17      end of the specific interim period, that its continued participation is not detrimental to the  
18      public interest. The amended application essentially switches the burden of proof from  
19      the utility to the Staff, OPC and other parties and makes the time period of Commission  
20      authorization for continued MISO participation open ended so there is no longer a  
21      specific point in time when the merits of continued participation would be evaluated.

22      **Q.     DOES PUBLIC COUNSEL SUPPORT THE NEW TERMS AND CONDITIONS OF CONTINUED**  
23      **MISO PARTICIPATION CONTAINED IN THE AMENDED APPLICATION?**

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1 A. No. We believe that the terms and conditions included in the Stipulation and  
2 Agreement approved by the Commission in Case No. **EO-2008-0134** (plus additional  
3 conditions set forth later in this testimony) are necessary to ensure that UE's continued  
4 participation in **MISO** will not be detrimental to the public interest. Some of the  
5 important terms and conditions from the Stipulation and Agreement (most of which were  
6 included in the initial application in this case) that have been deleted or altered include:

- 7 • The limited time period for the extension of authorization to participate in  
8 **MISO** (without automatic renewals) which was in the Case No. **EO-2008-0134**  
9 Stipulation and Agreement;
- 10 • Removing the burden for UE to show that continued participation is not  
11 detrimental to the public interest prior to the end of a limited period of interim  
12 approval to continue participating in **MISO**; and
- 13 • The requirement for UE to perform a cost benefit analysis in consultation with  
14 stakeholders prior to the end of a limited period of interim approval.

15 **Q. DOES OPC BELIEVE THAT REQUIRING UE TO PERFORM A COST BENEFIT ANALYSIS IN**  
16 **CONSULTATION WITH STAKEHOLDERS PRIOR TO THE END OF A LIMITED PERIOD OF**  
17 **INTERIM APPROVAL SHOULD CONTINUE TO BE A CONDITION FOR COMMISSION**  
18 **AUTHORIZATION OF UE'S CONTINUED PARTICIPATION IN MISO?**

19 A. Yes. This process has been in place now for two cost benefit studies and **OPC** believes it  
20 has worked well and not placed undue burdens on any party. While these studies require  
21 substantial resources on the part of the utility (especially if they are not limited to  
22 updating a prior cost benefit studies like the study performed for this case by UE), the  
23 consequences of RTO participation choices can have such large financial impacts on  
24 ratepayers that the effort is justified.

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1 **Q. DOES OPC HAVE ANY COMMENTS ON THE ANALYTICAL FRAMEWORK THAT SHOULD**  
2 **BE USED FOR THE FUTURE COST BENEFIT STUDIES THAT YOU ARE RECOMMENDING?**

3 A. As noted previously, most aspects of the arrangements for performing these studies by  
4 the Company in consultation with stakeholders have worked well. The only major change  
5 that OPC recommends is extending the length of the time period of the study for future  
6 studies. In the future, these studies should cover a ten year time period. If the time period  
7 is not extended to ten years, then it should at least be extended to a five year time period.

8 **Q. DOES UE WITNESS AJAY ARORA ADDRESS ELIMINATING THE REQUIREMENT FOR UE**  
9 **TO PERFORM A COST BENEFIT STUDY IN CONSULTATION WITH STAKEHOLDERS IN HIS**  
10 **DIRECT TESTIMONY?**

11 A. No. He does not mention the elimination of this requirement from the Amended  
12 Application in his testimony. Therefore, no evidence has been presented by the Company  
13 to support eliminating this important study.

14 **Q. DO YOU KNOW WHY UE CHOSE TO AMEND ITS ORIGINAL APPLICATION IN THIS CASE?**

15 A. I am not aware of any communications that UE had with the parties in this case about its  
16 reasoning for filing an amended application. However, it is worth noting that the  
17 amended application was filed after a lengthy period of settlement discussions  
18 during which the parties failed to reach any agreements that would resolve the  
19 disputed issues in this case.

20 **Q. SHOULD ANY COMMISSION APPROVAL OF UE'S CONTINUED PARTICIPATION IN MISO**  
21 **BE CONDITIONED UPON INCLUDING THE TERMS AND CONDITIONS CONTAINED IN THE**

1                   **STIPULATION AND AGREEMENT THAT WAS APPROVED BY THE COMMISSION IN CASE**  
2                   **NO. EO-2008-01347**

3           **A.**     Yes. However, Public Counsel believes that the terms and conditions in that Stipulation  
4                   and Agreement (which were largely the same as the terms and conditions specified in  
5                   UE's initial application) are not sufficient to ensure that UE's continued participation in  
6                   MISO will not be detrimental to the public interest due to new developments that have  
7                   arisen in the last couple of years.

8           **Q.**     **PLEASE DESCRIBE THE NEW DEVELOPMENTS THAT YOU REFERENCED IN YOUR PRIOR**  
9                   **ANSWER.**

10          **A.**     There are several new developments that occurred after the Stipulation and Agreement  
11                   was approved by the Commission in Case No. EO-2008-0134. These new developments  
12                   include:

13                   The new strategic initiative of the Ameren Corporation (Ameren) to create a  
14                   new subsidiary named the Ameren Transmission Company (ATX) that Ameren  
15                   wants to build most of the major new transmission projects (e.g. the MISO  
16                   Multi-Value Projects or MVPs) that would be constructed within Missouri and  
17                   Illinois.

18                   UE's recent assertion in its Application for re-hearing in Case No. EX-2010-  
19                   0254, where the Company states that a provision in transmission portion of the  
20                   new IRP rules is "unlawful in that it is preempted by federal law (pursuant to the  
21                   Supremacy Clause of the U.S. Constitutions and cases decided thereunder) to  
22                   the extent that it purports to usurp or control the decision making process  
23                   relating to the construction of transmission within the footprint of a FERC-  
24                   approved **RTO**" and also states "the decision regarding what transmission



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1 should be built is delegated to the RTO...by FERC." (These statements fail to  
2 recognize important provisions in Section 5.3 of the Service Agreement that  
3 FERC permitted to go into effect.)

- 4 • The increasingly diverse interests of Ameren subsidiaries (including ATX)  
5 which are represented by UE's agent, Ameren Services, that is supposed to  
6 represent the interests of UE and UE's customers at MISO.
  
- 7 • An August 2, 2010 affidavit filed by Dennis Kramer in support of the  
8 application of ATX and various Ameren operating companies in FERC Docket  
9 No. ELIO-80 where he acknowledges that he communicates "Ameren's  
10 corporate positions to Regional Transmission Organization (RTO) stakeholders  
11 and the Midwest ISO." (Mr. Kramer is the Ameren Services employee who is  
12 supposed to communicate UE's positions to MISO stakeholders and MISO in  
13 his position as UE's agent that engages in MISO activities on behalf of UE.)

14 **Q. REGARDING YOUR FIRST BULLET POINT ABOVE, HAS AMEREN MADE ANY EXPLICIT**  
15 **STATEMENTS ABOUT ITS INTENTIONS TO HAVE ATX BUILD MOST OF THE NEW MAJOR**  
16 **TRANSMISSION PROJECTS IN MISSOURI AND ILLINOIS?**

17 A. Yes. An example of such a statement can be found in Ameren's May 19, 2011 press  
18 release titled "Ameren Corporation Announces Federal Energy Regulatory Commission  
19 approval of Rate Treatment for New Transmission Projects -- Federal Approval Essential  
20 for Needed Projects of Newly Formed Ameren Transmission Company." This press  
21 release included the following statements about Ameren's plans for how its subsidiaries  
22 will be involved in making new transmission investments:

23 Formed in August 2010, ATX will invest in electric transmission  
24 infrastructure to expand Ameren's already robust transmission system of  
25 more than 7,400 circuit miles of high-voltage transmission in Missouri  
26 and Illinois.

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1 This new structure would support Ameren's integrated transmission  
2 system, which covers 64,000 square miles in Illinois and Missouri.  
3 **While Ameren's regulated local electric utilities will continue to own**  
4 **and invest in existing transmission facilities and related new assets,**  
5 **ATX will invest in, and own, new major transmission projects.**  
6 [Emphasis added]

7  
8 **Q. IN UE'S ANSWER TO QUESTION 8. (A) IN ITS JUNE 16, 2011 PLEADING TITLED**  
9 **"AMEREN MISSOURI'S RESPONSES TO ORDER DIRECTING PARTIES TO ANSWER**  
10 **CERTAIN QUESTIONS," UE STATES THAT "PROJECTS JUSTIFIED FOR PURPOSES**  
11 **OTHER THAN MAINTAINING RELIABLE SERVICE TO AMEREN MISSOURI'S CUSTOMERS,**  
12 **SUCH AS MULTI-VALUE PROJECTS, REGIONALLY BENEFICIAL PROJECTS AND**  
13 **PROJECTS TO INTERCONNECT NEW GENERATION RESOURCES WILL BE BUILT BY ATX**  
14 **AND ITS SUBSIDIARIES." DOES UE CONTINUE TO ASSERT THAT MULTI-VALUE**  
15 **PROJECTS, REGIONALLY BENEFICIAL PROJECTS AND PROJECTS TO INTERCONNECT**  
16 **NEW GENERATION RESOURCES ARE NOT BUILT TO HELP MEET RELIABILITY NEEDS?**

17 **A.** Apparently not. The responses that Maureen Borkowski provided to OPC DR Nos. 2017,  
18 2018, and 2019 indicate that UE believes Multi-Value Projects, Regionally Beneficial  
19 Projects and projects to interconnect new generation resources "may also help meet  
20 reliability needs."

21 **Q. HOW DOES AMEREN'S INTENTIONS TO HAVE ATX BUILD MAJOR TRANSMISSION**  
22 **PROJECTS IN MISSOURI IMPACT THE EFFECTIVENESS OF THE TERMS AND CONDITIONS**  
23 **IN THE STIPULATION AND AGREEMENT THAT WAS APPROVED BY THE COMMISSION IN**  
24 **CASE NO. EO-2008-0134?**

25 **A.** Paragraph 19 of the Stipulation and Agreement states:

26 19. Continued Effectiveness of the Service Agreement. The Signatories  
27 acknowledge and agree that the continued effectiveness of the Service  
28 Agreement (unless it is terminated pursuant to its terms), is an integral  
29 part of this 2008 Stipulation, including the Service Agreement's

1           **primary function to ensure that the MoPSC continues to set the**  
2           **transmission component of AmerenUE's rates to serve its Bundled**  
3           **Retail Load.** Therefore, the Signatories agree that the MoPSC will have  
4           the right to rescind its approval of AmerenUE's participation in the  
5           Midwest ISO and to require AmerenUE to withdraw on any of the  
6           following bases: [Emphasis added].

7           Section 5.3 of the Service Agreement is a key part of the Service Agreement's ability to  
8           "ensure that the MoPSC continues to set the transmission component of AmerenUE's  
9           rates to serve its Bundled Retail Load." This section states:

10           Section 5.3 GridAmerica LLC and the Midwest ISO will review the  
11           Resource Plans of AmerenUE in accordance with the applicable  
12           agreements, planning protocols and guidelines and will inform  
13           AmerenUE regarding new transmission facilities or enhancements to  
14           existing transmission facilities (collectively, "Transmission Upgrades"),  
15           if any, that are needed to support the AmerenUE Resource Plans and  
16           other requirements for new transmission and the timetable for any such  
17           Transmission Upgrades. **AmerenUE shall be required to obtain the**  
18           **approval of the MoPSC prior to AmerenUE undertaking the**  
19           **construction of Transmission Upgrades in Missouri if the**  
20           **Transmission Upgrades are not required to support AmerenUE's**  
21           **specific Resource Plans but rather result from other Transmission**  
22           **Upgrade requirements .** [Emphasis added]

23           At the time this provision was included in the service agreement, in early 2004, there was  
24           no prospect of any entity other than UE "undertaking the construction of Transmission  
25           Upgrades in Missouri" which were "not required to support AmerenUE's specific  
26           Resource Plans but rather result from other Transmission Upgrade requirements."

27           Section 5.3 was sufficient in 2004 for the Service Agreement to serve its primary  
28           function "to ensure that the MoPSC continues to set the transmission component of  
29           AmerenUE's rates to serve its Bundled Retail Load." However, with the creation of  
30           ATX and Ameren's stated intention for ATX to "invest in, and own, new major  
31           transmission projects," circumstances have changed so that the provisions in Section 5.3  
32           of the Service Agreement are no longer sufficient to "ensure that the MoPSC continues to  
33           set the transmission component of AmerenUE's rates to serve its Bundled Retail Load."

1 **Q. HAS UE RECOGNIZED IN THE PAST THAT SECTION 5.3 WAS A KEY FEATURE OF THE**  
2 **SERVICE AGREEMENT?**

3 A. Yes. UE's counsel, Jim Lowery, made the following statements about Section 5.3 at a  
4 February 20,2004 on the record presentation in Case No. EO-2003-0271:

5 **Another key feature of the service agreement that's built in deals**  
6 **with giving this Commission a voice in future transmission upgrades**  
7 **in Missouri that the ISO might think is needed.** Let me explain that  
8 just a little bit further. As you know, in Missouri, if we are going to  
9 build transmission within our existing certificated area, there's no  
10 requirement that we come and get Commission permission to do that.  
11 You probably also know that we meet semi-annually with Staff and  
12 Public Counsel for Resource Planning Briefings that deal with our  
13 resource generation and transmission. [Emphasis added]

14 The service agreement provides that if the ISO, for example, believes  
15 that transmission needs to be built in Missouri, and if that transmission is  
16 not within our resource plan, and even if that transmission would be  
17 within our existing certificated area, nevertheless, **we would have to**  
18 **come to this Commission and obtain this Commission's approval of**  
19 **building that transmission, that gives you a voice and a measure of**  
20 **control over building transmission** that, from a more of a top-down  
21 perspective, that the RTO believes may be needed by not necessarily  
22 been a part of Utilities Resource Plan, and **we think that's an important**  
23 **protection for rate payers.** Emphasis added]

24 **Q. DID ANY OF THE OTHER PARTIES ADDRESS THE PROVISIONS IN SECTION 5.3 OF THE**  
25 **SERVICE AGREEMENT DURING THE ON THE RECORD PRESENTATION IN CASE NO. EO-**  
26 **2003-0271?**

27 A. Yes. The counsel for the Commission Staff, Denny Frey, made the following statement:

28 Mr. Lowery had mentioned earlier, I believe he referred to Section 5.3 of  
29 the Service Agreement, which provides for Commission approval in an  
30 instance in which they wouldn't normally have Commission approval for  
31 transmission upgrades, so in that regard, the Commission actually gets  
32 increased authority compared to where it might be under the current - -  
33 under the status quo.

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1       **Q.     WILL THE COMMISSION BE ABLE TO RETAIN ITS AUTHORITY OVER THE TRANSMISSION**  
2       **PORTION OF THE BUNDLED RETAIL RATE IF IT HAS NO SAY OVER WHAT TRANSMISSION**  
3       **GETS BUILT IN MISSOURI AND NO SAY OVER WHO WILL BUILD IT?**

4       **A.**    No. If MISO projects are constructed in UE's service territory by ATX that are "not  
5       required to support AmerenUE's specific Resource Plans but rather result from other  
6       Transmission Upgrade requirements," then UE customers will see the cost of such  
7       projects included in their bills when some or all of the costs of these projects are allocated  
8       to UE according to MISO cost allocation protocols. While the costs of such projects  
9       would be allocated to UE, since they are not built by UE, UE's customers will not benefit  
10      from the transmission revenues that offset the cost of these investments. In addition, if the  
11      costs of these projects are inflated by the transmission incentives that FERC approves for  
12      ATX, then not only will UE's customers see the cost of ATX projects in transmission  
13      component of their rates, but these costs will be inflated by FERC ratemaking treatment  
14      and any additional incentives that FERC approves.

15      **Q.     NOW THAT YOU HAVE EXPLAINED SOME OF THE CHANGED CIRCUMSTANCES THAT**  
16      **WILL IMPACT THE ABILITY OF THE COMMISSION TO RETAIN ITS AUTHORITY OVER ALL**  
17      **ELEMENTS OF THE BUNDLED RETAIL RATE, DO YOU HAVE ANY RECOMMENDATIONS**  
18      **FOR NEW CONDITIONS IN RESPONSE TO THESE NEW DEVELOPMENTS?**

19      **A.**    Yes. Public Counsel recommends that the Commission condition its approval of UE's  
20      continued participation in MISO on UE's acceptance of the following condition to  
21      address the changed circumstances:

22                UE shall construct and own any and all transmission projects proposed  
23                for UE's certificated retail service territory, unless UE requests and  
24                receives approval from the Commission for an entity other than UE to  
25                pursue, in part or in whole, construction and/or ownership of the  
26                proposed project(s), which entity shall have a certificate of convenience  
27                and necessity issued by the Missouri Public Service Commission for the  
28                proposed project(s).

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1 Q. PLEASE EXPLAIN WHY THIS CONDITION WOULD BE NECESSARY GIVEN THAT THE  
2 **MISO** TRANSMISSION OWNERS AGREEMENT (**TOA**) SPECIFIES THAT EACH  
3 TRANSMISSION OWNER HAS AN "OBLIGATION TO BUILD" TRANSMISSION PROJECTS  
4 THAT ARE PART OF THE **MISO** TRANSMISSION EXPANSION PLAN?

5 A. While the TOA requires transmission owners to build certain projects, the TOA  
6 definition of "Owner" states "a public utility holding company system shall be treated as  
7 a single Owner for purposes of this agreement." Therefore, unless the Commission  
8 imposes this condition, the Ameren holding company (Ameren) will be able to choose to  
9 have ATX build transmission projects in Missouri, instead of UE.

10 Q. YOU STATED PREVIOUSLY THAT ONE OF THE DIFFERENCES BETWEEN THE **INITIAL**  
11 APPLICATION AND THE AMENDED APPLICATION IS THAT THE INITIAL APPLICATION HAD  
12 A DEFINITE END DATE FOR THE **TIME** PERIOD DURING WHICH **UE's** AUTHORIZATION TO  
13 PARTICIPATE IN **MISO** WOULD CONTINUE WHEREAS THE AMENDED APPLICATION HAS  
14 AN EXTENDED PERIOD AFTER WHICH AUTOMATIC ONE YEAR RENEWALS WOULD  
15 OCCUR. PLEASE EXPLAIN WHY YOU BELIEVE THAT THE COMMISSION'S  
16 AUTHORIZATION TO PARTICIPATE IN **MISO** SHOULD HAVE A DEFINITE END DATE THAT  
17 **ONLY EXTENDS THREE OR FOUR YEARS FROM THE CURRENT END DATE AUTHORIZED**  
18 **IN CASE No. EO-2008-0134.**

19 A. There are a number of uncertainties that may impact which RTO choice, if any,  
20 makes the most sense for UE. These uncertainties include:

- 21 • Continued uncertainty over which RTO, if any, Entergy will choose to join.
- 22 • Continued uncertainty over the Resource Adequacy framework that will be in  
23 effect for **MISO** and the extent to which such a framework may have a  
24 detrimental impact on resource planning at UE.

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- 1                   •    Uncertainty over when SPP will implement its Day 2 market and the magnitude  
2                   of benefits that UE might obtain from participating in this market as a member  
3                   of the SPP RTO compared to the benefits over time that UE would be expected  
4                   to obtain from continuing to participate in MISO markets as a member of the  
5                   MISO RTO.
- 6                   •    Continuing uncertainty over future changes that FERC will seek to make in the  
7                   operation of electric wholesale markets, transmission investment incentives,  
8                   transmission planning, and transmission cost allocation.

9           **Q.**    EARLIER IN **THIS** TESTIMONY YOU LISTED SEVERAL NEW DEVELOPMENTS THAT  
10           OCCURRED AFTER THE STIPULATION AND AGREEMENT WAS APPROVED BY THE  
11           **COMMISSION** IN CASE NO. **EO-2008-0134** WHICH AFFECT THE EXTENT TO WHICH THE  
12           TERMS AND CONDITIONS IN THAT STIPULATION AND AGREEMENT ARE STILL  
13           SUFFICIENT TO MAKE **UE's** CONTINUED PARTICIPATION IN **MISO** NOT DETRIMENTAL  
14           TO THE PUBLIC INTEREST. PLEASE CONTINUE TO ADDRESS THE NEW DEVELOPMENTS  
15           THAT YOU HAVE NOT ALREADY COMMENTED UPON.

16           **A.**    The new developments that I have not yet commented upon include:

- 17                   •    The increasingly diverse interests of Ameren subsidiaries (including ATX)  
18                   which are represented by UE's agent, Ameren Services, that is supposed to  
19                   represent the interests of UE and UE's customers at MISO.
- 20                   •    An August 2, 2010 affidavit filed by Dennis Kramer in support of the  
21                   application of ATX and various Ameren operating companies in FERC Docket  
22                   No. **EL10-80** where he acknowledges that he communicates "Ameren's  
23                   corporate positions to Regional Transmission Organization (RTO) stakeholders  
24                   and the Midwest ISO." (Mr. Kramer is the Ameren Services employee who is

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1                   supposed to communicate UE's positions to MISO stakeholders and MISO in  
2                   his position as UE's agent that engages in MISO activities on behalf of UE.)

3                   Both of these developments show the need for an additional condition to help ensure that  
4                   UE's continued participation in MISO will not be detrimental to the public interest.  
5                   Ameren Services employee Dennis Kramer is the individual that represents the interests  
6                   of UE and the various Ameren transmission subsidiaries (Ameren Transmission  
7                   Company of Illinois and ATX) on the MISO Transmission Owners Committee. He is also  
8                   one of the Transmission Owner representatives on the MISO Advisory Committee where  
9                   he currently holds the position of Vice-Chair. Ameren Services also represents the  
10                  interests of additional Ameren Subsidiaries at MISO and these additional Ameren  
11                  affiliates are presumably also represented by Mr. Kramer of Ameren Services. The DR  
12                  response that Ms. Borkowski provided in response to OPC DR No. 2003 states that  
13                  "Ameren Services Company employees represent the interests of Ameren Missouri,  
14                  Ameren Illinois Company, Ameren Transmission Company, Ameren Transmission  
15                  Company of Illinois, and Ameren Energy Marketing" at MISO.

16                  Given the different business lines in which they are involved and differing regulatory  
17                  frameworks that they operate under, it is clear that most, if not all, of these Ameren  
18                  affiliates as well as their parent company, Ameren, have interests that are different from  
19                  UE and UE's customers. UE and its customers cannot expect to have a representative that  
20                  effectively communicates their unique interests and positions when that same  
21                  representative is responsible for representing all of the other affiliates noted in the  
22                  preceding paragraph. In fact, as Mr. Kramer acknowledged in his August 2, 2010  
23                  affidavit that was filed in support of the application of ATX and various Ameren  
24                  operating companies in FERC Docket No. ELIO-80, he communicates "Ameren's  
25                  corporate positions to Regional Transmission Organization (RTO) stakeholders and the  
26                  Midwest ISO."



1 **Q. YOU STATED THAT AMEREN AND ITS SUBSIDIARIES HAVE INTERESTS THAT ARE**  
2 **DIFFERENT FROM THOSE OF UE AND ITS CUSTOMERS. HAVE YOU BEEN ABLE TO**  
3 **REVIEW DOCUMENTS THAT DESCRIBE THE BUSINESS PLANS AND INTERESTS OF**  
4 **AMEREN AND ITS OTHER AFFILIATES SUCH AS ATX?**

A. No. OPC DR Nos. 2006 and 2007 requested UE to provide *strategic/business*  
plans for Ameren and ATX pertaining to the planning, construction, operation, or  
maintenance of existing or possible future transmission facilities in Missouri and UE has  
objected to providing this information based in part on the grounds that these DRs  
were seeking:

10 ..information relating to the business affairs or operations of  
11 **affiliates** of Ameren Missouri, other than information relating to  
12 transactions occurring between Ameren Missouri and its affiliates  
13 or goods or services exchanged between Ameren Missouri and its  
14 affiliates and, consequently, it is also irrelevant and not reasonably  
15 calculated to lead to the discovery of admissible evidence.

16 While it is logical to conclude that Ameren and its subsidiaries have interests that are  
17 different from those of UE and its customers, the requested information would likely  
18 provide additional details about the extent and specifics of those differences. UE has the  
19 burden of showing that continuing to use Ameren Services to represent its interests at  
20 MISO is not detrimental to the public interest, and refusing to provide documents that  
21 would shed light on the interests of the other Ameren affiliates also represented by  
22 Ameren Services prevents the Company from being able to satisfy this burden.

23 **Q. WHAT ADDITIONAL CONDITION DOES PUBLIC COUNSEL RECOMMEND IN ORDER TO**  
24 **MAKE SURE THAT THE INTERESTS OF UE AND ITS CUSTOMERS ARE EFFECTIVELY**  
25 **COMMUNICATED AND PURSUED AT MISO?**

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1 A. OPC recommends that the Commission require UE to cease having Ameren Services  
2 represent it at MISO and instead have its own representative actively participating in the  
3 MISO Transmission Owners Committee and as needed in other MISO stakeholder groups  
4 in order to make sure that the interests of UE and its customers are effectively  
5 communicated and pursued at MISO.

6 **Q. PLEASE SUMMARIZE ALL OF THE RECOMMENDATIONS THAT YOU HAVE MADE IN THIS**  
7 **TESTIMONY.**

8 A. Public Counsel recommends that any Commission authorization for UE to continue  
9 participating in MISO as a transmission owning member include requiring UE to agree to  
10 the following conditions that are intended to ensure that UE's continued participation not  
11 be detrimental to the public interest.

12 • The same basic framework of terms and conditions included in the Stipulation  
13 and Agreement approved by the Commission in Case No. EO-2008-0134 should  
14 be used in this case plus the other additional conditions in the following bullets.  
15 Some of the important terms and conditions from this prior stipulation and  
16 agreement that were not included in UE's amended application include: (1)  
17 approval for a limited time period of an additional three or four years after  
18 which UE would have to show that a further extension would not be detrimental  
19 to the public interest and (2) requiring UE to perform a cost benefit analysis in  
20 consultation with stakeholders prior to the end of the limited period of interim  
21 approval.

22 • UE shall construct and own any and all transmission projects proposed for UE's  
23 certificated retail service territory, unless UE requests and receives approval  
24 from the Commission for an entity other than UE to pursue, in part or in whole,

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1 construction and/or ownership of the proposed project(s), which entity shall  
2 have a certificate of convenience and necessity issued by the Missouri Public  
3 Service Commission for the proposed project(s).

- 4 • UE shall cease having Ameren Services represent it at MISO and instead have  
5 its own representative actively participating in the MISO Transmission Owners  
6 Committee and as needed in other MISO stakeholder groups in order to make  
7 sure that the interests of UE and its customers are effectively communicated and  
8 pursued at MISO.

9 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

10 **A. Yes.**

