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June 21, 1996

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ROBERT J. HACK
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Mr. David L. Rauch
Executive Secretary
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

RE: Case No. EM-96-149 -- In the matter of the Application of Union Electric Company for an order authorizing: (1) certain merger transactions involving Union Electric Company; (2) the transfer of certain Assets, Real Estate, Leased Property, Easements and Contractual Agreements to Central Illinois Public Service Company; and (3) in connection therewith, certain other related transactions.

Dear Mr. Rauch:

Enclosed for filing in the above-captioned case are the original and fourteen (14) conformed copies of a **HEARING MEMORANDUM**. A listing of the issues and witnesses is contained in the Hearing Memorandum, but the schedule for the issues will be filed the first part of next week along with executed signature pages.

This filing has been mailed or hand-delivered this date to all counsel of record.

Thank you for your attention to this matter.

Very truly yours,

Steven Dottheim
Deputy General Counsel
573-751-7489

SD:ceb
Enclosure
cc: Counsel of Record

Exhibit No. 1
Date 9-5-96 Case No. EM-96-149
Reporter KE

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

In the matter of the Application)
of Union Electric Company for an)
order authorizing: (1) certain merger)
transactions involving Union Electric)
Company; (2) the transfer of certain)
Assets, Real Estate, Leased Property,)
Easements and Contractual Agreements)
to Central Illinois Public Service)
Company; and (3) in connection)
therewith, certain other related)
transactions.)

) Docket No. EM-96-149

FILED
JUN 21 1996
MISSOURI
PUBLIC SERVICE COMMISSION

HEARING MEMORANDUM

Pursuant to the Commission's Order issued January 22, 1996, a Prehearing Conference regarding all issues in this case was conducted at the offices of the Missouri Public Service Commission, P.O. Box 360, Jefferson City, Missouri 65101, beginning at 10:00 a.m. on June 5, 1996. The parties participating in the Prehearing Conference were: the Commission Staff (Staff), Union Electric Company (Company or UE), the Office of Public Counsel (Public Counsel), Monsanto, et al. Missouri Industrial Energy Consumers or MIEC), Laclede Gas Company (Laclede), The Empire District Electric Co. (Empire), Locals 2, 309, 702 and 1455 of the International Brotherhood of Electrical Workers (Unions), Kansas City Power & Light Company (KCP&L), the State of Missouri at the relation of the Attorney General (State), Missouri Gas Energy, a division of Southern Union Company (MGE), Trigen-St. Louis Energy Corporation (Trigen), and UtiliCorp United, Inc. (UtiliCorp).

The undersigned parties submit this Hearing Memorandum in order to delineate the areas of difference which exist among the parties and to outline the contemplated order in which issues and witnesses will be presented for direct and cross-examination.

Except as otherwise noted herein, all parties hereto agree that this document delineates some areas of agreement and all areas of disagreement which exist among some or all of the parties as of the close of the Prehearing Conference respecting the issues in these proceedings. All parties reserve the right to inquire into and establish a position concerning any issue which is pertinent to the proceedings and which arises during the course of the proceedings as a new issue based on matters which could not reasonably have been contemplated based on the filings and pleadings herein as of the date hereof.

The page numbers identified herein for the testimony of each witness are merely for the convenience of the Commission and parties, and to the extent that all of a witness' testimony is not identified as support for a particular issue, this shall not preclude any party from offering all of said witness' testimony into evidence.

In addition, the designation of witnesses on each issue shall not preclude the parties from making relevant limited inquiry of other scheduled witnesses on all issues listed herein, subject to valid legal objection by any party.

The summary description of the issues as contained herein is solely for the convenience of the Commission and no party is necessarily bound by said description.

All parties not asserting a position on any of the issues in this proceeding at this time reserve the right to assert positions on the issues at a later date based on the record developed as a result of the hearing in this matter. Additionally, the fact that a party has not stated a

position on any of the issues in this proceeding does not preclude that party from cross-examination of those witnesses who proffer testimony on any of the issues in this proceeding at the hearing in this matter.

I. ISSUES

A. Approval of the UE/CIPSCO Merger

Company's Position

The Company proposes that the merger of UE/CIPSCO be approved as set forth in its Application which was filed with the Commission on November 7, 1995.

Staff's Position

The Staff proposes that the merger of UE/CIPSCO be approved only if certain conditions are met, as indicated in summary description below.

Public Counsel's Position

Public Counsel proposes that the Application be denied unless certain conditions are met. These conditions include an agreement to prevent loss of Commission jurisdiction and ratemaking treatment consistent with the alternative regulatory plan agreed upon in Cases ER-95-411 and EO-96-14.

MIEC's Position

The MIEC propose that the merger not be approved as set forth in the UE/CIPSCO Application, filed with the Commission on November 7, 1995, or as "proposed" through alternatives denoted in subsequent filings by the Company, unless the MIEC's conditions regarding the Ratemaking Proposal issue, the Recovery of Merger Premium issue, the General Services Agreement issue and the MIEC's Retail Wheeling Proposal are satisfied.

Witnesses:

Company: Mueller Direct, pp. 3-10

Staff: Moore Reb., pp. 12-15, 42-44, Schedule 19.

Public Counsel: Kind Reb., all pages; Kind Cross-Surr., all pages; Trippensee Reb., all pages; Burdette Reb., all pages

MIEC: Brubaker

B. Quantification of Savings

Company's Position

The Commission should conclude that the merger will create at least \$590 million in savings, and that these savings would not have occurred absent the merger. The Commission should also conclude that the Company's estimates as to merger savings are detailed, thorough, and in all respects reasonable and achievable. Further, the Commission should allow for the use of the \$590 million figure as applied to the Company's ratemaking proposal.

The Company's quantification of savings was based on extensive input by the management of both UE and CIPS, together with assistance from the foremost expert in the industry on merger synergies. Mr. Flaherty assisted UE and CIPS in developing the \$590 million estimate of merger savings, and explained in his testimony this estimate is reasonable and achievable.

Additionally, the Company explained that it developed a more detailed and thorough process to ensure that Ameren would achieve the \$590 million in merger savings. Approximately 20 teams and 400 individuals from UE and CIPS developed detailed plans for

achieving merger savings. The results exceeded the \$590 million originally estimated, and therefore confirmed Mr. Flaherty's projection.

Staff's Position

The savings estimates of Deloitte & Touche contained in UE's direct testimony are not an adequate basis for the setting of rates for either the near term or the 10 year period over which the merger savings of \$590 million was projected by Deloitte & Touche to occur. The Staff is not contending that the nature and timing of Deloitte & Touche's work for UE and CIPSCO were inappropriate for the purpose of developing a general merger savings estimate for planning purposes in advance of the merger agreement. The Staff is asserting that such an analysis is inappropriate to use for setting rates.

The Deloitte & Touche analysis was not supported by detailed analysis, but was based on various estimating techniques. Subsequent to the Deloitte & Touche analysis, UE engaged in a transition process, one of the purposes of which was to develop more detailed estimates of the savings expected from the merger. The Staff did not receive UE's new savings estimates until April 20, 1996. The Staff did not propose a delay in these proceedings to provide adequate time for the Staff to review these new estimates because the Staff does not believe that these new estimates are of more than limited value.

The Staff continues to believe that the appropriate policy is to base electric and gas rate levels on actual savings results rather than to rely on estimates of merger savings. These estimates are based on too many unknown factors and speculative assumptions on which to base rates. Also, UE's ratemaking proposal unfairly transfers the risk of actual savings being less than estimated savings from UE to UE's ratepayers.

MIEC's Position:

The Commission should recognize that the Company's merger savings figures are estimates unsupported by any evidence of probative value and are, therefore, speculative. They are not sufficiently precise or supported to warrant definitive use. Moreover, the estimated merger savings are a relatively small percentage (1/2 of one percent) of the combined total revenues of UE and CIPS.

Accordingly, the Company should be required to prove actual merger savings after the fact. Additionally, the Commission should require a complete rate case proceeding in order to establish appropriate costs and rate levels on a pre-merger basis to avoid counting as merger savings these cost reductions and efficiencies that occurred prior to the merger or could be achieved absent the merger.

Public Counsel's Position

Public Counsel believes that neither an upfront estimate nor an after the fact attempt to separate merger savings from other cost reductions will be at all accurate.

Witnesses:

Company: Flaherty Direct and Surr., all pages; Rainwater Direct, pp. 10-12; Nelson Surr., all pages; Reid Surr., all pages

Staff: Oligschlaeger Reb., pp. 10-19; Wallis Reb., p. 7.

MIEC: Brubaker Reb., pp. 3-15.

C. Conditions for Approval of the Merger

1. Ratemaking Proposal

Company's Position

The Company proposes that the Commission adopt its proposal of a 10-year recovery of transaction costs and merger premium plus 50% of net merger savings.

Alternatively, the Company proposes that the Commission extend the Alternative Regulatory Plan (ARP) for five years beyond June 30, 1998, with recovery of transaction costs; or 50/50 sharing of merger savings with gross-up for income taxes.

The Company is requesting an opportunity for its shareholders to be reimbursed for the merger premium and merger costs which they incur in order that the merger might be consummated and result ultimately in billions of dollars of savings which will be passed on to customers. Even though the Company believes that it is preferable to recognize these costs explicitly in a regulatory plan, it is not opposed to reimbursing its shareholders from merger savings in another manner that achieves a comparable economic effect. One method by which this may be achieved without explicit recognition of the merger premium is to share net merger savings approximately 50%/50% between customers and shareholders, with the shareholders' portion grossed up for income taxes. Another method is to extend the existing ARP for a sufficient time beyond June 1, 1998 to allow for reimbursement of merger related costs. The Company has proposed extending the ARP for an additional five year period. Without such an extension of the ARP, there would be no assurance that shareholders would ultimately be treated fairly.

In order to determine whether the Company's proposed sharing of savings is fair, one must consider the effect of taxes and the time value of money. Dollars received by shareholders which they must pay out in taxes are of no benefit to them. Further, since dollars are being paid out today by shareholders, and since they would not be fully

reimbursed until ten years from now, the shareholders are not made whole. Once these factors are fully appreciated, the Company's proposal is shown to be fair and reasonable.

Staff's Position

Staff is opposed to the ratemaking proposal contained in UE's direct case filed on November 7, 1995, and its two alternative proposals contained in the surrebuttal case of UE filed on June 3, 1996. UE's ratemaking proposals put the risk of actual savings being less than estimated savings on UE's ratepayers. UE's proposal would first assign approximately \$273 million of merger savings to the shareholders as dollar-for-dollar compensation for the asserted "merger premium" (\$232 million) and the transaction costs and "costs to achieve" (\$41 million). The remaining merger savings of \$317 million would be split 50/50 between shareholders and ratepayers leaving a total of \$431.5 million of savings for UE's shareholders and \$158.5 million of savings for UE's customers. The maximum percentage of total savings that UE's ratepayers can expect to see if UE's proposal is followed is 27%. (Gas cost savings will be passed on to UE's gas customers through the Purchase Gas Adjustment/Actual Cost Audit (PGA/ACA) process.)

However, as a result of the Stipulation And Agreement approved by the Commission on July 21, 1995, in Case No. ER-95-411 for UE's electric operations (not its gas operations), the above amounts and percentages will not represent the expected distribution of electric operations savings that will occur during the time that the "Experimental Alternative Regulation Plan" (Incentive Plan) remains in place for UE's electric operations. The earnings level sharing grid of the Incentive Plan will be in place until June 30, 1998, unless it is extended by agreement, or unless certain other events provided for in the Stipulation And

Agreement in Case No. ER-95-411 cut it short. From the consummation of the merger to the end of the Incentive Plan on June 30, 1998, UE proposes to recover for its shareholders from the merger savings the applicable amount of (a) the purported "merger premium," (b) the transaction costs and "costs to achieve", and (c) 50% of the remaining merger savings. The other 50% of the remaining merger savings would be shared between UE's shareholders and ratepayers by being flowed through the earnings level sharing grid. Thus, under UE's ratemaking proposal as it relates to the current Incentive Plan, a maximum of 13.5% of total merger benefits could be expected to go to UE's ratepayers.

The Staff recommends that the Commission reject UE's ratemaking proposal for merger costs and savings as it is premised upon the use of estimated merger savings and costs that are not currently "known and measurable" and cannot be verified in the future; UE's proposal effectively guarantees the shareholders' share of merger savings, while placing the risk of attaining merger savings on UE's ratepayers; and UE's proposal would result in UE's shareholders retaining a disproportionate share of merger savings compared to UE's ratepayers.

The Staff proposes that there be a 50/50 sharing between UE's shareholders and ratepayers of gross merger savings (total merger savings less actual, prudently incurred transaction costs and "costs to achieve"). The Staff's proposal is premised on the existing Incentive Plan remaining in effect to June 30, 1998. It is possible that UE can effect sufficient savings so that the amount of savings it can retain under the Incentive Plan provides a partial or total indirect recovery of the purported "merger premium." The Staff believes that the ratemaking treatment of the merger impacts beyond June 30, 1998, should be

left for a later time. At this time, without even the experience of the first year of the Incentive Plan, the Staff believes that it is premature to recommend extension of the Incentive Plan. If the Incentive Plan terminates and traditional ratemaking recurs, then 100% of any merger benefits will flow to UE's shareholders until the point at which a rate change is implemented.

Public Counsel's Position

Public Counsel proposes that costs and benefits from the proposed merger be flowed through the alternative regulatory plan established in ER-95-411.

MIEC's Position

See MIEC position regarding ratemaking.

State's Position

The State of Missouri, at the relation of the Attorney General, proposes that the Commission reject any ratemaking proposal that includes the direct recovery of a "merger premium" and/or recovery of a percentage of projected savings off the top. The State does not oppose the recovery of prudent transaction and merger costs.

Witnesses:

Company: Application, pp. 5-7; Rainwater Direct, pp. 17-26; Baxter Direct, pp. 9-10; Brandt Surr., pp. 3-4; Birdsong Surr., p. 4, 12-19.

Staff: Oligschlaeger Reb., pp 1-43, 56-57.

Public Counsel: Trippensee Reb., pp. 2-12, 24.

MIEC: Brubaker Reb., pp. 3-15.

2. Recovery of "Merger Premium"

Company's Position

The Company believes the shareholders should be reimbursed for the merger premium from merger savings. Such reimbursement need not be by direct recovery.

Staff's Position

UE's purported "merger premium" should not be included in rates because (1) the Commission has consistently rejected rate recovery of acquisition adjustments that have a real effect on utility earnings and (2) UE intends to account for the proposed merger as a pooling of interests, rather than as a purchase of assets, which means that the purported "merger premium" will not be reflected in any income statement or balance sheet account, since it is not an asset or an expense, and thus, no actual premium exists for financial reporting purposes and there is no effect on earnings.

Public Counsel's Position

Public Counsel does not believe any merger premium was actually paid and does not believe UE shareholders should be "reimbursed."

MIEC's Position

The MIEC propose that the Commission reject the ratemaking proposals submitted by the Company and refrain from approving any specific ratemaking plan in this proceeding. The Commission should allow the Company to recover valid merger costs in future proceedings only after the Company proves that actual merger-related savings exceeded the costs associated with the merger.

If UE is allowed to make claims in the future for recovery of merger costs and a share of merger savings, the Commission should order a complete rate case proceeding to establish appropriate costs and rate levels on a pre-merger basis.

If the Commission decides to approve a regulatory plan in this proceeding, the MIEC propose that the Commission require the "earnings sharing" plan, or Alternative Regulatory Plan, be modified so that ratepayers receive their intended share and otherwise as may be appropriate.

State's Position

The State of Missouri, at the relation of the Attorney General, proposes that the Commission reject any ratemaking proposal that includes the direct recovery of a "merger premium," or which is primarily designed for the purpose of indirect recovery of a "merger premium."

Witnesses:

Company: Brandt Direct, pp. 4-5, 8; Rainwater Direct, p. 18;

Kimmelman Direct, pp. 4-5; Brandt Surr., pp. 4-6; Birdsong Surr., pp. 1-6, 12, 17, 19-20

Staff: Oligschlaeger Reb., pp. 26-29, 36; Featherstone Reb., pp. 1-51; Hyneman Reb., pp. 1-17

Public Counsel: Kind Reb., pp. 4, 30, 57-63; Kind Cross-Surr., p. 2; Trippensee Reb., pp. 14-24; Burdette Reb., pp. 9-20

MIEC: Brubaker Reb., pp. 3-15

3. Commission Jurisdiction

On May 7, 1996, the Staff filed a legal memorandum respecting jurisdictional issues raised by UE's merger application entitled "Comments Of Staff Counsel" and Public Counsel filed a similarly minded legal memorandum entitled "Memorandum On Jurisdictional Issues." On May 10, 1996, a Notice was issued by the Commission advising the remainder of the parties that responses, if any, to these memoranda were welcome and due no later than the close of business June 7, 1996. On June 7, 1996, UE filed its "Legal Memorandum In Response To Staff And Office Of Public Counsel." No other parties filed responses. UE, Staff and Public Counsel do not intend these documents to be complete statements of their legal positions on jurisdictional issues raised in this docket. These parties reserve the right to (a) address these same and other legal issues and (b) submit additional memoranda in the continued course of this proceeding as deemed necessary or appropriate by them.

Company's Position

The partial loss of jurisdiction resulting from a legal change in corporate structure, with significant oversight remaining in other regulatory bodies, is not an adequate reason for a finding that the merger is "detrimental to the public interest." However, it is the Company's intent that, to the greatest extent possible, the MPSC not lose any jurisdiction because of this merger, or the resulting corporate structure. The Company agrees that Ameren Corporation and its subsidiaries and affiliates should be subject to MPSC jurisdiction after the merger to the same extent that UE and its subsidiaries and affiliates are subject to MPSC jurisdiction now. However, the Company does not believe that it is appropriate for the

Commission to be granted more jurisdiction over Ameren Corporation and its subsidiaries and affiliates than the Commission would have over UE and its subsidiaries and affiliates, or other utilities in Missouri, merely because of the merger.

Staff's Position

The Staff believes that the Commission should look at the effects of the merger and not the Company's intent when it assesses the jurisdictional impact of the merger. The Staff believes that the merger is detrimental to the public interest if it decreases the Commission's ability to set just and reasonable rates for UE's customers. This decrease in ability can result from an inability to obtain information or access to officers or employees of affiliated companies concerning costs incurred by UE when goods or services are provided by an affiliated company or costs of affiliated companies are allocated to UE or when the Commission is precluded from making an adjustment in determining cost of service because the transaction or inter-company allocation in question has been approved by either the SEC or the FERC.

Public Counsel's Position

Public Counsel believes that UE (and Ameren) should commit to Missouri Commission jurisdiction over affiliated transactions and agree not to assert federal preemption as a bar to the exercise of that jurisdiction.

Witnesses:

Company: Rainwater Direct, pp. 27-29; Brandt Surr., pp. 10-11; Legal Memorandum In Response To Staff And Office Of Public Counsel

Staff: Moore Reb., p. 14; Beck Reb., Schedule 1; Comments of Staff

Counsel

Public Counsel: Kind Reb., p. 3; Memorandum On Jurisdictional

Issues

4. Amortization of Transaction Costs and "Costs to Achieve"

Company's Position

The Company proposes a 10-year amortization of transaction costs and "costs to achieve."

Staff's Position

Staff recommends that the Commission disallow future recovery of 1995 transaction costs expensed below-the-line. Staff opposes the use of estimated transaction costs and estimated "costs to achieve" for ratemaking purposes. Staff proposes that the recovery period for actual prudently incurred transaction costs and "costs to achieve" should be 20 years. Staff also proposes a modification to Attachment C, "Reconciliation Procedure" to the Stipulation And Agreement in Case No. ER-95-411, which would allow for a 20-year amortization of transaction costs and costs to achieve above-the-line. Staff further proposes to exclude executive severance packages from Company's estimated "costs to achieve."

Public Counsel's Position

Public Counsel does not oppose recovery of prudent actual transaction and transition costs over 10 years.

Witnesses:

Company: Rainwater Direct, p. 23; Baxter Direct, pp. 8-9; Brandt Surr., p. 6; Baxter Surr., p. 8; Birdsong Surr., p. 17

Staff: Imhoff Reb., pp. 1-25

Public Counsel: Trippensee Reb., pp. 12-13

5. General Services Agreement

Company's Position

The Company agrees with Staff's proposal to modify the General Services Agreement.

Staff's Position

Under the General Services Agreement, most of the services currently performed by UE will be performed by Ameren Services Company. The Staff has yet to see a revised General Services Agreement which reflects the services provided by Ameren Services Company, but UE will file the revised General Services Agreement on June 21, 1996. UE has provided the general principles and allocation factors of the General Services Agreement. Since the General Services Agreement is subject to the jurisdiction in part of the SEC, the Commission must protect its authority to make adjustments for improper allocations or costs. The Staff will file supplemental rebuttal testimony respecting the revised General Services Agreement on June 26, 1996, and UE will file supplemental surrebuttal testimony on July 1, 1996.

Public Counsel's Position

Public Counsel supports the Staff position.

MIEC's Position

The MIEC reserve the right to file rebuttal testimony to Company witness Baxter's supplemental direct testimony and to the Company's final General Services Agreement, to be filed on or before June 21, 1996.

Witnesses:

Company: Rainwater Direct, pp. 14-15; Baxter Supp. Direct, pp. 1-2; Brandt Surr., p. 6

Staff: Schwieterman Reb., p. 5 and Suppl. Reb., pp. 1-___

MIEC: Brubaker (possibly filing supplemental rebuttal to address Baxter's supplemental direct and final General Services Agreement)

6. Joint Dispatch Agreement/System Support Agreement

Company's Position

The Company agrees to give the Commission access to data, records and employees as enumerated in items 1, 2 and 5 of Mr. Beck's Schedule 1.

As to item 3 of that Schedule, the Company agrees to submit any proposed change, amendment, modification or supplement of the Joint Dispatch Agreement and/or System Support Agreement to the Commission for approval.

The Company objects to incorporating the language proposed by Staff witness Beck in item 4 of his Schedule 1 in every wholesale energy or transmission agreement entered into by UE, CIPS, Ameren or any other affiliate, as this language appears to be designed to apply to agreements with unaffiliated companies as well as affiliated companies and is onerous.

The Joint Dispatch Agreement has been carefully designed to ensure that both UE and CIPS will incur lower costs by jointly dispatching their generating units. The System Support Agreement was appropriately tailored to coincide with the transfer of UE's Illinois retail jurisdiction to CIPS. UE structured this agreement to recover all power pool costs currently assigned to UE's Illinois retail jurisdiction from CIPS. The agreement should therefore not negatively impact UE's Missouri customers.

The Company requests the Commission to approve the Joint Dispatch Agreement and the System Support Agreement.

Staff's Position

The Company has proposed several different versions of a System Support Agreement. The Staff is opposed to the 30-year System Support Agreement because the benefits are uncertain. The Company also has proposed a 10-year System Support Agreement. In principle, the Staff is not opposed to the Company entering into a 10-year System Support Agreement in order to transfer its Illinois customers to CIPS. The Staff believes that the benefits of the 10-year System Support Agreement to Missouri ratepayers are not certain and believes that the Commission should not preapprove the acquisition of the associated generation resources for the benefit of Missouri ratepayers. The Company should receive the benefits of the generation resources if the book value is below market value and should bear any loss if the book value of the generation resources is above market value. The Staff is willing to consider a shorter term for the System Support Agreement if UE makes such a proposal and the Staff has adequate time to review it and respond.

The principles contained in the Joint Dispatch Agreement proposed by the Company which would allow UE and CIPS to operate their systems as one system, economically dispatched, and would allocate costs between the two companies, is generally acceptable to the Staff. However, the Staff cannot provide assurances that allocations under the Joint Dispatch Agreement will be fair to Missouri ratepayers until UE is actually operating under the Joint Dispatch Agreement. Staff proposes that any future changes to the Joint Dispatch Agreement must be approved by the Commission before they are submitted to FERC for approval.

The Joint Dispatch Agreement will be subject to FERC jurisdiction. The Staff wants to ensure that UE cannot use FERC jurisdiction to prohibit the Commission from reviewing UE activity and conduct and making adjustments for inappropriate allocations under the Joint Dispatch Agreement.

Public Counsel's Position

Public Counsel supports the Staff position.

Witnesses:

Company: Rainwater Direct, p. 12; Borkowski Direct, pp. 4-13; Brandt Surr., pp. 6-7; Borkowski Surr., pp. 3-5, 9

Staff: Beck Reb., Schedule 1, pp. 11-12; Beck, Suppl. Reb., pp. 11, 14

7. Electric Production

Company's Position

The partial loss of jurisdiction resulting from a legal change in corporate structure, with significant oversight remaining in other regulatory bodies, is not an adequate

reason for a finding that the merger is "detrimental to the public interest." However, it is the Company's intent that, to the greatest extent possible, the MPSC not lose any jurisdiction because of this merger, or the resulting corporate structure. The Company agrees that Ameren Corporation and its subsidiaries and affiliates should be subject to MPSC jurisdiction after the merger to the same extent that UE and its subsidiaries and affiliates are subject to MPSC jurisdiction now. However, the Company does not believe that it is appropriate for the Commission to be granted more jurisdiction over Ameren Corporation and its subsidiaries and affiliates than the Commission would have over UE and its subsidiaries and affiliates, or other utilities in Missouri, merely because of the merger.

The Company objects to Staff's proposal to include language in every wholesale energy or transmission agreement entered into by UE, CIPS, Ameren or any other affiliate whether or not these agreements are between the affiliates which would prohibit Ameren or itself from overturning an order or decision by this Commission on affiliated transactions. Even if this language was clarified to apply only to agreements between affiliated interests, the language is too onerous.

Staff's Position

The Staff believes, and the Company does not dispute, that the Company's choice of a registered holding company form will affect Commission jurisdiction. The Commission will still have authority over retail rates, but power sales and purchases and transmission transactions between UE and other Ameren companies, such as the transactions under the Joint Dispatch Agreement and the System Support Agreement, will be subject to FERC regulation, while non-power sales and purchases between UE and Ameren companies

will be subject to SEC authority. The Staff believes the Commission should protect its ability and authority to make adjustments in revenues, expenses and rate base for imprudent, unreasonable or unlawful costs incurred by the Company.

Public Counsel's Position

Public Counsel believes that UE (and Ameren) should commit to Missouri Commission jurisdiction over affiliated transactions and agree not to assert federal preemption as a bar to the exercise of that jurisdiction.

Witnesses:

Company: Brandt Surr., pp. 7-11; Borkowski Surr., pp. 3-5

Staff: Beck Reb., Schedule 1

8. Gas Supply, Storage and/or Transportation Services

Company's Position

The partial loss of jurisdiction resulting from a legal change in corporate structure, with significant oversight remaining in other regulatory bodies, is not an adequate reason for a finding that the merger is "detrimental to the public interest." However, it is the Company's intent that, to the greatest extent possible, the MPSC not lose any jurisdiction because of this merger, or the resulting corporate structure. The Company agrees that Ameren Corporation and its subsidiaries and affiliates should be subject to MPSC jurisdiction after the merger to the same extent that UE and its subsidiaries and affiliates are subject to MPSC jurisdiction now. However, the Company does not believe that it is appropriate for the Commission to be granted more jurisdiction over Ameren Corporation and its subsidiaries and

affiliates than the Commission would have over UE and its subsidiaries and affiliates, or other utilities in Missouri, merely because of the merger.

The Company objects to Staff's proposal to include language in every wholesale energy or transmission agreement entered into by UE, CIPS, Ameren or any other affiliate whether or not these agreements are between the affiliates which would prohibit Ameren or itself from overturning an order or decision by this Commission on affiliated transactions. Even if this language was clarified to apply only to agreements between affiliated interests, the language is too onerous.

Staff's Position

Since the Experimental Alternative Regulation Plan (Incentive Plan) now in effect only applies to UE's electric utility operations and not to its gas utility operations, the majority of the gas merger savings (approximately 85%) will flow to ratepayers through the PGA/ACA mechanism. Rate-case related merger savings will not flow to shareholders until UE files a gas rate case or the Staff files a gas complaint case, at which time UE's gas operations revenue requirement will be determined and any gas merger savings will be part of that revenue requirement determination. If the merger is approved, the Commission should set gas rates based on post-merger levels of operation and maintenance expenses actually incurred.

With respect to this issue, Staff recommends certain conditions that UE should accept prior to Commission approval of the merger. UE in its surrebuttal testimony has agreed to some, but not all of these conditions. These items are set out herein in the "Staff's Position" on the following issues which identify the conditions that UE indicates in its surrebuttal testimony it will not accept: Issue 12, Affiliated Transactions; Issue 8, Gas

Supply, Storage and/or Transportation Services; Issue 14, Access to Ameren's and Ameren Affiliates' and Subsidiaries Books and Records; and Issue 15, Answers and Access to Officers and Employees.

Public Counsel's Position

Public Counsel supports the Staff position.

Witnesses:

Company: Borkowski Direct, pp. 15-21; Brandt Surr., pp. 7-11;

Borkowski Surr., pp. 29-30

Staff: Wallis Reb., pp. 1-15

9. Language Contained in Stipulation and Agreement from Case No. GR-93-106

Company's Position

The Company accepts Staff's proposal.

Witnesses:

Company: Brandt Surr., p. 14; Borkowski Surr., p. 27

Staff: Wallis Reb., p. 11

10. Data Required Under 4 CSR 240-20.080

Company's Position

The Company accepts Staff's proposal to furnish the Commission in an electronic format the data required under 4 CSR 240-20.080 with the exception that the hourly purchased power and interchange data does not currently exist in electronic format. The Company expects it to be available once the centralized control center completes modifications

to the energy management computer system to accommodate joint dispatch. Hard copy data will be provided until such time as the modifications are complete.

Staff's Position

The Company's proposal is acceptable to the Staff.

Public Counsel's Position

Public Counsel supports the Staff position.

Witnesses:

Company: Brandt Surr., p. 15; Borkowski Surr., pp. 6-7

Staff: Lin Reb., p. 9

11. After-the-Fact Resource Allocation Data

Company's Position

The Company accepts Staff's proposal to furnish the Commission in an electronic format after-the-fact resource allocation data.

Witnesses:

Company: Brandt Surr., p. 15; Borkowski Surr., p. 9

Staff: Beck Reb., pp. 21-22, Schedule 1

12. Affiliated Transactions

Company's Position

The partial loss of jurisdiction resulting from a legal change in corporate structure, with significant oversight remaining in other regulatory bodies, is not an adequate reason for a finding that the merger is "detrimental to the public interest." However, it is the Company's intent that, to the greatest extent possible, the MPSC not lose any jurisdiction

because of this merger, or the resulting corporate structure. The Company agrees that Ameren Corporation and its subsidiaries and affiliates should be subject to MPSC jurisdiction after the merger to the same extent that UE and its subsidiaries and affiliates are subject to MPSC jurisdiction now. However, the Company does not believe that it is appropriate for the Commission to be granted more jurisdiction over Ameren Corporation and its subsidiaries and affiliates than the Commission would have over UE and its subsidiaries and affiliates, or other utilities in Missouri, merely because of the merger.

The Company objects to Staff's proposal to include language in every wholesale energy or transmission agreement entered into by UE, CIPS, Ameren or any other affiliate whether or not these agreements are between the affiliates which would prohibit Ameren or itself from overturning an order or decision by this Commission on affiliated transactions. Even if this language was clarified to apply only to agreements between affiliated interests, the language is too onerous.

Staff's Position

The holding company structure that the Company has proposed will necessarily increase the number of UE's affiliated transactions. Ameren Services Company will perform many of the functions currently performed by UE. The transactions between UE and Ameren companies will be subject to SEC approval. Staff wants to ensure that UE cannot use SEC jurisdiction to prohibit the Commission from reviewing and making adjustments for improper affiliate transactions.

Public Counsel's Position

Public Counsel believes that UE (and Ameren) should commit to Missouri Commission jurisdiction over affiliated transactions and agree not to assert federal preemption as a bar to the exercise of that jurisdiction.

Witnesses:

Company: Brandt Surr., pp. 7-11; Borkowski Surr., pp. 3-5

Staff: Moore Reb., p. 14; Schwieterman Reb., p. 6; Wallis Reb., pp.

13-14

Public Counsel: Kind Reb., p. 3

13. Pre-Approval of Affiliated Transactions (Optional and Not Endorsed by Staff)

Company's Position

The Company agrees that pre-approval of affiliate transactions is a viable method of preserving the Missouri Commission's regulatory authority. The Company notes that this method was followed in both Indiana and Ohio in connection with the CINergy mergers.

Staff's Position

The Staff listed this condition as a possible way for the Commission to retain jurisdiction over affiliate transactions and to prevent possible preemption by the SEC and FERC. The Staff has not endorsed this option in its rebuttal testimony because of the Staff's and the Commission's historical non-use of the pre-approval option, but the Staff would recommend to the Commission consideration of pre-approval if it is the only means by which the Commission may maintain its jurisdiction.

Public Counsel's Position

Public Counsel does not believe that any party has actually proposed pre-approval of affiliate transactions. Public Counsel does not believe that such a departure from traditional regulatory practices is necessary in this case.

Witnesses:

Company: Brandt Surr., pp. 7-11

Staff: Moore, Reb., p. 14

14. Access to Ameren's and Ameren Affiliates' and Subsidiaries' Books and Records

Company's Position

The Company agrees that the Commission and its Staff will be given the right to inspect all accounts, books, contracts, records, documents, memoranda and papers of Ameren Corporation, whether or not these documents involve regulated or non-regulated matters.

Staff's Position

The Staff believes that in order to prevent ratepayers from cross-subsidization, the Commission must have access to relevant information no matter which company in the Ameren holding company system possesses the information.

Public Counsel's Position

Public Counsel proposes that it and the Commission Staff be given full access to the books and records of UE, Ameren and all their subsidiaries and affiliates.

Witnesses:

Company: Brandt Surr., p. 11; Baxter Surr., pp. 14-15; Borkowski Surr., pp. 9, 27

Staff: Lin Reb., p. 9; Moore Reb., p. 15; Oligschlaeger Reb., pp. 53-54; Wallis Reb., pp. 12-13

15. Answers and Access to Officers and Employees

Company's Position

The Company agrees that the officers and employees of Ameren Corporation and all of its subsidiaries and affiliates will be available to the Commission to the same extent and under the same limitations as Union Electric Company's officers and employees are currently available, under the provisions of state law or Commission regulations.

Staff's Position

The Company only agrees to comply with any rules regarding access to affiliate information which are developed by the Commission in Case No. OO-96-329. The Staff maintains that the Commission must have access to officers and employees of Ameren Corporation and all of its subsidiaries and affiliates in particular since many of UE's activities will be performed by Ameren companies after the merger. In order to protect ratepayers from cross-subsidization, the Commission must be able to access employees who possess relevant information no matter which company in the Ameren holding company structure they work for. Decision of this matter should not be delayed until Commission resolution of Case No. OO-96-329.

Public Counsel's Position

Public Counsel proposes that it and the Commission Staff be given full access to the officers and employees of UE, Ameren and all their subsidiaries and affiliates.

Witnesses:

Company: Brandt Surr., p. 12; Borkowski Surr., pp. 9, 27

Staff: Moore Reb., p. 15; Beck Reb., Schedule 1; Oligschlaeger Reb., pp. 53-54; Wallis Reb., pp. 12-13

16. Discovery Practices

Company's Position

The Company agrees to maintain current discovery practices.

Witnesses:

Company: Brandt Surr., p. 13

Staff: Oligschlaeger Reb., p. 56

17. Monthly Surveillance Reports

Company's Position

The Company accepts Staff's proposal to continue to provide the Commission with monthly surveillance reports.

Witnesses:

Company: Brandt Surr., p. 14; Baxter Surr., pp. 15-16

Staff: Moore Reb., p. 42

18. Quarterly Provision of Allocation Information

Company's Position

The Company accepts Staff's proposal.

Witnesses:

Company: Brandt Surr., p. 14; Baxter Surr., p. 15

Staff: Oligschlaeger Reb., p. 56

19. Maintain Separate Merger-Related Payroll Records

Company's Position

The Company objects to Staff's proposal to maintain separate payroll records for merger-related activities. The expected benefits of maintaining such separate payroll records do not sufficiently outweigh the costs associated with this effort. In particular, UE is not incurring any significant, incremental labor costs due to merger-related activities. All of UE's normal, ongoing activities are still being performed, and no significant labor costs are being included in cost of service since employees devoting significant time to merger-related efforts are principally salaried employees who are not compensated for overtime. Further, UE would have to incur additional costs to comply with the Staff's proposed condition.

Staff's Position

Payroll costs that are merger-related are transaction costs and should be treated as such. UE does not propose to keep separate merger-related payroll records with respect to employees working on merger-related matters. UE's position is inconsistent with past Commission precedent. Staff believes that as a condition of Commission approval of the proposed merger, UE should be ordered to maintain merger-related payroll costs separately.

Public Counsel's Position

Public Counsel takes no position on this issue.

Witnesses:

Company: Brandt Surr., pp. 14-15; Baxter Surr., pp. 9-11

Staff: Imhoff Reb., pp. 9-11

20. Estimated Differentiated Required ROE

Company's Position

The Company accepts Staff's proposal.

Witnesses:

Company: Brandt Surr., pp. 15-16; Baxter Surr., pp. 15-16

Staff: Moore Reb., p. 23

21. Accounting and Other Controls for Cost Allocations and Transfer Pricing

Company's Position

The Company agrees with Staff's proposal.

Witnesses:

Company: Brandt Surr., p. 13; Baxter Surr., p. 15

Staff: Oligschlaeger Reb., pp. 54-55

22. UE Management

Company's Position

The Company objects to Staff's proposal that UE provide an annual report to the Commission identifying non-clerical personnel transferred from UE to any of

Ameren's other businesses. The requirement of an annual report would be an unnecessary burden and an inappropriate intrusion into the management of the Company.

Staff's Position

Staff is concerned that Missouri customers may lose the benefit of UE's management and operations expertise if personnel are transferred to other Ameren regulated or non-regulated subsidiaries or affiliates. Staff therefore recommends that UE and Ameren should be required to provide an annual report identifying non-clerical personnel transferred from UE to any of Ameren's other businesses.

Public Counsel's Position

Public Counsel supports the Staff's position on this issue.

Witnesses:

Company: Brandt Surr., pp. 16-17

Staff: Oligschlaeger Reb., p. 55

II. OTHER ISSUES

A. MIEC's Retail Wheeling Proposal

MIEC's Position

The MIEC propose, in light of the proposed transaction, that the Commission require the formation of a task force of the parties to this docket to promptly implement a retail wheeling program or experiment for the benefit of all UE-serviced Missouri ratepayers as part of this docket.

Company's Position

The Company submits that the Commission need not, and should not, address this MIEC issue in this proceeding. As it is not addressed in the testimony of Mr. Brubaker, there would be no evidence in the record to support any Commission rulings on this issue. In any case, even if Mr. Brubaker had addressed this issue, the Commission would have no authority to implement the pilot project desired by the MIEC.

Staff's Position

MIEC has submitted no testimony on its retail wheeling proposal. It has raised this matter as an issue solely in this Hearing Memorandum, rather than when it had an opportunity to do so in testimony. There is nothing that precluded MIEC from addressing this matter in its rebuttal testimony. Thus, the Staff maintains that it would be inappropriate for the Commission to address MIEC's proposal, which is presented by MIEC for the first time for Commission consideration in this proceeding in the instant Hearing Memorandum.

Public Counsel's Position

Public Counsel supports the Company's position.

Empire's Position

Empire supports the Company's position.

UtiliCorp's Position

UtiliCorp is keenly interested in and supportive of retail wheeling - open access issues. UtiliCorp does not believe, however, that these matters should be addressed by the Commission within the context of a merger proceeding. Instead, if addressed by the Commission, retail wheeling - open access issues should be the subject of a separate proceeding or task force independent of this merger docket in which all interested parties

would be afforded an opportunity to present their views concerning all related factual and legal issues, including the extent of customer choice, regulatory jurisdictional matters, market efficiency, recovery of costs and legislative authorization.

B. Trigen's Transmission Access and Standby Rates Proposal

Company's Position

The Company submits that the Commission need not, and should not, address the issues raised by Trigen regarding (1) UE's alleged denial of adequate transmission access and (2) appropriate rates for standby service. These issues are not relevant to this merger proceeding and thus should not be considered by the Commission. Further, there would be no harm to Trigen if its issues are not considered in this proceeding, as Trigen is pursuing the same claims in other proceedings before this Commission and the FERC.

On the first issue, Trigen has expressly requested transmission service from UE, and not from Ameren. As a result, the issue does not arise from the merger. In any case, the Commission does not have jurisdiction over the rates, terms and conditions of the transmission access which Trigen is seeking from UE. That is a matter for FERC to address. Even if the Commission were to find this issue to be relevant and within its jurisdiction, Trigen's concerns are moot in that UE has committed in a FERC proceeding to provide Trigen with a transmission service schedule, with rates, terms and conditions to be resolved by FERC.

Regarding UE's rates for standby service, this is not related to the merger, either. UE has had such rates in effect for many years. Further, Trigen will be allowed to pursue its same contentions against Rider E in another proceeding pending before this

Commission (EC-96-164). Even if the Commission were to find this issue to be relevant, UE's rates for standby service are just and reasonable, and this Commission and others in Illinois and Iowa have so found on several occasions since the early 1980's.

Trigen's Position

The Commission should deny approval of the proposed merger unless the Company demonstrates that the merged companies will not operate to suppress competition by continuing to deny adequate transmission access and charge appropriate rates for standby service as required under Federal and State regulations, statutes and law.

Witnesses:

Trigen: Spiewak Reb., all pages

Company: Kovach, all pages

Borkowski, pp. 16-18, 21-22

III. ORDER OF ISSUES/WITNESSES

<u>Date</u>	<u>Time</u>	<u>Issue</u>	<u>Witnesses</u>
July 1	a.m.	Approval of and Rationale for Merger: Policy	UE: Mueller Brandt
		Ratemaking Proposal/ Recovery of Merger Premium	UE: Brandt Birdsong Rainwater Baxter Kimmelman*

Due to scheduling conflicts, Mr. Kimmelman requests that he be scheduled for the morning of July 3.

Staff: Hyneman
Featherstone
Oligschlaeger

Public Counsel:
Trippensee
Kind
Burdette

MIEC: Brubaker

Quantification of Savings

UE: Flaherty *
Rainwater
Nelson
Reid**

* Due to scheduling conflicts, Mr. Flaherty requests that he be scheduled for July 8.

**Due to scheduling conflicts, Mr. Reid requests that he be scheduled for July 8-11.

Staff: Wallis
Oligschlaeger

MIEC: Brubaker

Commission Jurisdiction

UE: Brandt
Rainwater

Staff: Moore
Beck

Public Counsel:
Kind

Amortization of Costs

UE: Baxter
Rainwater
Brandt
Birdsong

Amortization of Costs	UE: Baxter Rainwater Brandt Birdsong Staff: Imhoff Public Counsel: Trippensee
General Services Agreement	UE: Baxter Rainwater Staff: Schwieterman MIEC: Brubaker
JDA/SSA; Electric Production; Gas Supply	UE: Rainwater Borkowski
Affiliated Transactions; Pre- Approval of Affiliated Transactions; Access to Books and Records; Access to Officers and Employees	UE: Borkowski Baxter Staff: Moore Schwieterman Wallis Lin Oligschlaeger Beck Public Counsel: Kind
Separate Payroll Records	UE: Baxter Staff: Imhoff
UE Management	UE: Brandt

Staff: Oligschlaeger

MIEC's Retail Wheeling
Proposal

No witnesses

Trigen's Transmission*
Access and Standby
Rates Proposal

Trigen: Spiewak

UE: Kovach
Borkowski

(*Due to conflicts on July 11 and 12, Trigen has requested that cross-examination on this issue be completed by Wednesday afternoon, July 10.)

Respectfully submitted,

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