

Exhibit No.:

Issues: Effect of Transfer on Service in  
Missouri

Witness: Craig D. Nelson

Type of Exhibit: Surrebuttal Testimony

Sponsoring Party: Union Electric Company  
d/b/a AmerenUE

Case No.: EO-2004-0108

Date Testimony Prepared: March 1, 2004

**MISSOURI PUBLIC SERVICE COMMISSION**

**Case No. EO-2004-0108**

**SURREBUTTAL TESTIMONY**

**OF**

**CRAIG D. NELSON**

**ON BEHALF OF**

**UNION ELECTRIC COMPANY,  
d/b/a AmerenUE**

**FILED<sup>4</sup>**

**APR 16 2004**

**Missouri Public  
Service Commission**

St. Louis, Missouri  
March 1, 2004

Exhibit No. 6  
Case No(s) EO-2004-0108  
Date 3-25-04 Rptr XF

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

**In the Matter of the Application of Union )  
Electric Company d/b/a AmerenUE for )  
an Order Authorizing the Sale, Transfer )  
an Assignment of Certain Assets, Real Estate )  
Leased Property, Easements and Contractual )  
Agreements to Central Illinois Public )  
Service Company d/b/a AmerenCIPS, and )  
in Connection Therewith, Certain Other )  
Related Transactions. )**

**Case No. EO-2004-0108**

**AFFIDAVIT OF CRAIG D. NELSON**

**STATE OF MISSOURI     )**

**) ss**

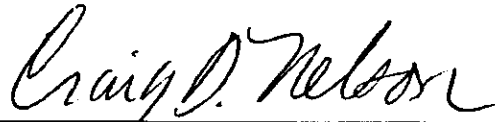
**CITY OF ST. LOUIS     )**

Craig D. Nelson, being first duly sworn on his oath, states:

1. My name is Craig D. Nelson. I work in St. Louis, Missouri, and I am employed by Ameren Services Company as Vice President – Corporate Planning.

2. Attached hereto and made a part hereof for all purposes is my Surrebuttal Testimony on behalf of Union Electric Company d/b/a AmerenUE consisting of 25 pages, including Schedule 1, all of which have been prepared in written form for introduction into evidence in the above-referenced docket.

3. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct.



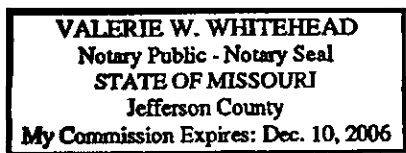
Craig D. Nelson

Subscribed and sworn to before me this 1st day of March, 2004.



Notary Public

My commission expires:



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**SURREBUTTAL TESTIMONY**  
**OF**  
**CRAIG D. NELSON**  
**CASE NO. E0-2004-0108**

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

A. My name is Craig D. Nelson. My business address is Ameren Services Company,  
1901 Chouteau Avenue, St. Louis, Missouri 63103.

**Q. Are you the same Craig D. Nelson that provided direct testimony in this proceeding?**

A. Yes, I am.

**Q. Has your position or areas of responsibility at Ameren Services changed since you filed direct testimony in this proceeding?**

A. No, they have not.

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

A. I will be responding on behalf of AmerenUE (or the Company) to portions of the Rebuttal Testimony filed by Dr. Michael S. Proctor, Mr. Greg Meyer, Ms. Janis Fischer, Mr. Alan Bax and Mr. Ryan Kind. The fact that I have not responded in this Surrebuttal Testimony to a particular issue raised or position taken by other witnesses that have filed Rebuttal Testimony in this case, or to all of the issues raised or positions taken by these witnesses, should not be construed to mean that I agree with or support such issues or positions.

1   **I.       EXECUTIVE SUMMARY OF TESTIMONY.**

2  
3   **Q.       Please provide an executive summary of your testimony.**

4   **A.**     The issue in this case is whether the Metro East Transfer is detrimental to the  
5           public, meaning whether the Transfer will negatively impact AmerenUE's ability  
6           to provide reliable, safe and adequate service to the public in Missouri.

7           The Metro East Transfer does not have a detrimental effect to the public.  
8           In fact, it actually enhances AmerenUE's already strong ability to provide safe,  
9           reliable and adequate service. No witnesses have testified to the contrary. In  
10          addition, since none of the property to be transferred is located in Missouri, the  
11          Transfer will have no adverse effect on the tax revenues of any Missouri political  
12          subdivision. (see paragraph 12 of the Application)

13          The issues which should **not** be addressed in this case include (1) whether  
14          the Joint Dispatch Agreement ("JDA") should be amended and (2) whether there  
15          are ratemaking consequences as a result of this transfer. In the Company's last  
16          retail electric rate proceeding before the Commission the Commission Staff  
17          ("Staff") had a full opportunity to address the ratemaking impacts of the JDA and  
18          did factor those impacts into their assessment of whether to support the  
19          Stipulation and Agreement which resolved all of the pending issues in Case No.  
20          EC-2002-1. In effect, Staff is proposing ratemaking adjustments in the present  
21          case related to the JDA to take into account the results of the Transfer. This is  
22          single issue ratemaking and is not appropriate. The Company does not believe  
23          this is the appropriate case for proposing such adjustments. It's also an attempt  
24          by Staff to get a second bite of the apple.

1           Staff should wait until the next rate proceeding when all of the Company's  
2 costs can be examined in a comprehensive and thorough manner, as was the case  
3 in the Settlement of EC-2002-1. If ratemaking impacts do occur, or are alleged to  
4 occur, then the Commission and any other proper party will, at the appropriate  
5 future point in time in a ratemaking proceeding, have an opportunity to address  
6 those ratemaking impacts. Any such ratemaking proceeding would not, however,  
7 occur until at least 2006 due to the current rate moratorium in effect as a result of  
8 the Commission's order in the EC-2002-1 case. In the meantime, Missouri  
9 customers are not harmed.

10           In summary, there is nothing about the Metro East Transfer that has any  
11 present or even immediate detrimental effect to Missouri.

12 **II. EFFECT OF THE METRO EAST TRANSFER ON AMERENUE'S**  
13 **ABILITY TO SAFELY AND ADEQUATELY PROVIDE UTILITY**  
14 **SERVICE.**

15  
16 **Q. Does any of the Rebuttal Testimony filed in this case allege, imply, or even**  
17 **suggest that the Metro East Transfer would in any way affect AmerenUE's**  
18 **ability to continue to provide reliable, safe, and adequate service to the public**  
19 **in Missouri?**

20 **A.** No. All of the rebuttal witnesses essentially argue either that there might be  
21 negative financial (i.e. ratemaking) consequences as a result of the Metro East  
22 Transfer or that they lack sufficient information to determine what kind of  
23 ratemaking consequences might or might not occur in the future as a result of the  
24 Transfer. At best, their arguments are speculative. Future and uncertain  
25 ratemaking consequences are not properly an issue in this case. Instead, the issue

1 in this case is whether the Metro East Transfer is detrimental to the public,  
2 meaning whether the Transfer will negatively impact AmerenUE's ability to  
3 provide reliable, safe and adequate service to the public in Missouri. The  
4 Company's attorneys will address this legal point in more detail in one or more  
5 filings with the Commission.

6 **Q. For the record, will the Metro East Transfer have any detrimental effect**  
7 **whatsoever on AmerenUE's ability to continue to adequately serve its**  
8 **remaining customers in Missouri?**

9 A. No. To the contrary, there will be a positive effect. The transfer of the load  
10 served by the assets that will be transferred to AmerenCIPS, and the resulting  
11 additional generating capacity available to serve AmerenUE's customers (who  
12 will now exclusively be Missouri customers), will enhance AmerenUE's already  
13 strong ability to provide safe, reliable and adequate service. As my Direct  
14 Testimony indicates, the transaction is designed to maintain the status quo with  
15 respect to the capital structures of AmerenUE and AmerenCIPS, meaning  
16 AmerenUE's return on equity will be unaffected. Further, as I discuss below,  
17 AmerenUE is committed to ensuring that appropriate liabilities are properly  
18 allocated to AmerenCIPS so that the financial ability of AmerenUE is not in any  
19 way negatively impacted.

20 **Q. Does the Metro East Transfer have any effect on Missouri tax revenues?**

21 A. Since none of the property to be transferred is located in Missouri, the Transfer  
22 will have no adverse effect on the tax revenues of any Missouri political  
23 subdivision. (see paragraph 12 of the Application)

1    **Q.     Does the Metro East Transfer have any effect on AmerenUE's utility**  
2       **operations at all?**

3    A.    In a material way, no. However, I am told that I was mistaken with respect to two  
4       minor aspects of my Direct Testimony relating to the natural gas operations being  
5       transferred to AmerenCIPS. I want to take this opportunity to correct those  
6       mistakes. The Surrebuttal Testimony of Mr. James Massmann also addresses  
7       these issues in more detail. In brief, I now understand that there is one firm gas  
8       transportation contract that is currently used to supply both AmerenUE's Metro  
9       East Local Distribution Company ("LDC") area in Illinois that will be transferred  
10      and also its Fisk/Lutesville LDC area in Missouri. I also understand that there has  
11      historically been an operating connection between the LDC operations in Illinois  
12      and natural gas supply at two Missouri AmerenUE generating plants, Venice and  
13      Meramec. As Mr. Massmann's Surrebuttal Testimony explains, however, there  
14      will be no material impact, and certainly no detriment, to AmerenUE's Missouri  
15      operations when these two minor connections relating to the natural gas  
16      operations being transferred no longer exist.

17   **III.    RESPONSE TO DR. PROCTOR'S REBUTTAL TESTIMONY.**  
18

19   **Q.     What issues with regard to Dr. Proctor's Rebuttal Testimony do you wish to**  
20       **address?**

21   A.    I wish to address Dr. Proctor's comments regarding the JDA, and his contentions  
22       that it should be changed as a result of this proceeding.

23   **Q.     What is your overall response to Dr. Proctor's comments regarding the**  
24       **JDA?**



1     A.     Whether the JDA should be changed should not be addressed in this case. It  
2           should not be an issue because all of Dr. Proctor's comments relate solely to  
3           possible, future ratemaking consequences of the JDA that may never materialize.  
4           Given that AmerenUE's rates are fixed until at least July 1, 2006, there is no  
5           present ratemaking consequence arising from the Metro East Transfer related to  
6           the JDA, and there may never be.

7                 Further, I note that in the Company's last retail electric rate proceeding  
8           before the Commission the Staff had a full opportunity to address the ratemaking  
9           impacts of the JDA and did factor those impacts into their assessment of whether  
10          to support the Stipulation and Agreement which resolved all of the pending issues  
11          in Case No. EC-2002-1. In particular, Dr. Proctor submitted testimony in Case  
12          No. EC-2002-1 in which he proposed certain ratemaking adjustments based on his  
13          review of the JDA. (Attached as Schedule 1 to my surrebuttal is a copy of the NP  
14          version of Dr. Proctor's Direct Testimony in that case which contains his  
15          recommendations.) Certainly the Staff factored in Dr. Proctor's recommendation  
16          when concluding what would be a fair and reasonable settlement. Certainly the  
17          Company believed that the ratemaking impacts of the JDA represented a  
18          significant component of the Stipulation reached by the parties.

19                Dr. Proctor's contentions that the JDA should be changed as a result of the  
20          Transfer in effect focuses on only one type of cost that AmerenUE would be  
21          incurring after the Transfer to the exclusion of all others. In effect, Staff is  
22          proposing ratemaking adjustments in the present case related to the JDA to take  
23          into account the results of the Transfer. This is single issue ratemaking and is

1 not appropriate. The Company does not believe this is the appropriate case for  
2 proposing such adjustments. Instead, Staff should wait until the next rate  
3 proceeding when all of the Company's costs can be examined in a comprehensive  
4 and thorough manner, as was the case in the Settlement of EC-2002-1.

5 **Q. What is your understanding as to why Dr. Proctor is attempting to tie the**  
6 **JDA to the matter before the Commission in this case?**

7 A. As I understand his testimony, Dr. Proctor argues that two things about the JDA  
8 need to be changed in order for him to support the Metro East Transfer as not  
9 detrimental to the public. First, he argues that the formula in the JDA that  
10 allocates profits from off-system power sales should be changed so that the  
11 allocation is based upon generating output, and not on load as presently provided  
12 for in the JDA. Second, he argues that the JDA should be changed so that energy  
13 transfers between the generating parties to the JDA are at market price instead of  
14 at incremental cost, as presently provided for in the JDA.

15 **Q. How is either proposed change to the JDA relevant to a present**  
16 **determination of whether or not the Metro East Transfer is detrimental to**  
17 **the public?**

18 A. As I noted above, I do not believe either of Dr. Proctor's proposed changes is  
19 relevant to any issue other than possible, future ratemaking impacts that might or  
20 might not ever occur. Further, if ratemaking impacts do occur, or are alleged to  
21 occur, then the Commission and any other proper party will, at the appropriate  
22 future point in time in a ratemaking proceeding, have an opportunity to address  
23 those ratemaking impacts. Any such ratemaking proceeding would not, however,

1 occur until at least 2006 due to the current rate moratorium in effect as a result of  
2 the Commission's order in the EC-2002-1 case. There is nothing about the Metro  
3 East Transfer that has any present or even immediate detrimental effect to  
4 Missouri in general, or to AmerenUE's Missouri rates in particular, regarding the  
5 JDA's current allocation of profits on short term sales, or on the market price  
6 versus incremental cost aspects of the JDA which have existed since the JDA was  
7 entered into as of January 1, 1998 when the merger of Union Electric and  
8 CIPSCO Incorporated occurred.

9 **Q. Please discuss further your understanding of Dr. Proctor's position on the**  
10 **Transfer and the JDA.**

11 A. As I understand it, Dr. Proctor has concluded that the JDA should be amended in  
12 connection with the Metro East Transfer. He believes that absent such an  
13 amendment AmerenUE would likely receive a lower percentage of profits from  
14 off-system power sales after the Metro East Transfer because AmerenUE's load  
15 will decrease. This future impact is speculative. As I've stated above, that is still  
16 a future ratemaking impact that should in fact not be an issue in this case.

17 **Q. Has AmerenUE offered to address Dr. Proctor's point on the JDA?**

18 A. Yes. In January of this year, the Company met with Staff and the Office of the  
19 Public Counsel ("OPC"), who chose to participate by telephone. At the meeting,  
20 in order to settle the case, the Company offered to agree, as a condition of the  
21 Commission's approval of the Metro East Transfer, to amend the JDA  
22 concurrently with the closing of the Metro East Transfer to provide that profits

1 from off-system sales would be allocated based upon generating output, and not  
2 based on load requirements as is currently the case.

3 As discussed above, because the future, possible ratemaking impacts of  
4 the JDA after the Metro East Transfer would occur are so speculative, I do not  
5 believe it is necessary for the Commission to impose as a condition for approving  
6 the Transfer any amendment of the JDA.

7 My position on this point is consistent with recent Commission orders  
8 authorizing transfers of customers and facilities between the Company and  
9 electric cooperatives. (See, for example, Case No. EC-2002-178, Report and  
10 Order issued January 24, 2002, involving the transfer of customers and facilities  
11 from AmerenUE to Gasconade Electric Cooperative.)

12 Thus, the Company strongly recommends that the Commission approve  
13 the Transfer without any such condition.

14 However, if the Commission believes that it is imperative to accept the  
15 Company's offer as a condition to approving the Transfer, then the Company is  
16 willing to agree to this condition. Specifically, if the Commission concludes that  
17 this is necessary, AmerenUE is prepared to use its best efforts to amend the JDA  
18 to provide that profits from off-system power sales are to be allocated to  
19 AmerenUE based upon generating output and not based on load. This "best  
20 efforts" condition is required because the amendment to the JDA would be subject  
21 to regulatory approval by the Federal Energy Regulatory Commission ("FERC")  
22 and by this Commission, and possibly by the Illinois Commerce Commission  
23 ("ICC").

1    **Q.     What would be the effect of that amendment?**

2    A.     It would make it even more clear that the Metro East Transfer will not be  
3           detrimental to Missouri, and that Missouri will significantly benefit from the  
4           Transfer. Further, it would benefit Missouri in the long-term. Under the current  
5           terms of the JDA, the Transfer is the least cost option by \$2.4 million per year.  
6           With the offered amendment, the Transfer is the least cost option by \$9.5 million  
7           per year (i.e., revenue requirements are \$9.5 million per year lower than the next  
8           best option). Thus, the amendment further decreases future revenue requirements  
9           and increases the value of the transfer by approximately \$7 million a year (\$9.5  
10          million - \$2.4 million). The increase is due to our expectations that AmerenUE's  
11          share of profits from off-system sales will increase by approximately \$7 million  
12          annually.

13                 As Mr. Richard Voytas explains in more detail in his Surrebuttal  
14                 Testimony, he has calculated the present value of savings in future revenue  
15                 requirements over a 20-year time frame, as compared to the next best option.  
16                 When this increase in AmerenUE's share of profits from off-system sales is taken  
17                 into account, the \$11 million advantage in the present value of savings supporting  
18                 the Metro East Transfer as AmerenUE's least-cost resource option (as initially  
19                 discussed in Mr. Voytas' Direct Testimony) balloons to become a \$79 million  
20                 advantage in present value savings. This not only means that the Metro East  
21                 Transfer would have no detrimental effect on AmerenUE's ability to reliably  
22                 serve its customers, but it establishes by a wide margin that the Metro East

1           Transfer provides a tangible financial benefit to Missouri in terms of meeting  
2           AmerenUE's long-term generating and capacity needs at the lowest cost possible.

3   **Q.   What about Dr. Proctor's desire that energy transfers under the JDA be**  
4           **priced at market as opposed to incremental cost?**

5   A.   As discussed above, the Metro East Transfer does not affect or change the rates  
6           that are currently being paid by AmerenUE's Missouri electric ratepayers.  
7           Consequently, financial results to AmerenUE as a result of the current transfer-  
8           pricing mechanism under the JDA as it exists today cannot harm Missouri  
9           customers as a result of the Metro East Transfer. Therefore, Dr. Proctor's desire  
10          that the JDA be amended relating to transfer pricing should be irrelevant to the  
11          issue of whether the Metro East Transfer is detrimental to the public interest.  
12          Furthermore, amending the JDA to address the transfer pricing issue is a complex  
13          issue that would require AmerenUE, Staff and OPC to engage in additional study,  
14          and in substantial discussions, in order to work together to consider and  
15          potentially develop alternative approaches to address Dr. Proctor's concerns in the  
16          long-term. Transfer pricing at market is a complex analysis to perform in light of  
17          the fact that there is not a market price clearinghouse from which to obtain  
18          accurate hourly market price information. It is even more difficult to develop an  
19          operating scheme to jointly dispatch generation under a transfer with a market  
20          price scenario. AmerenUE has offered to begin meeting with Staff and OPC soon  
21          on a regular basis to develop alternative approaches to this issue. As with our  
22          previous offer, in regard to profits from off-system power sales, we strongly  
23          believe that the Commission should not impose this offer to study alternatives as a

1 condition to approving the Transfer. However, should the Commission conclude  
2 otherwise, , the Company would be agreeable to this condition.

3 **IV. RESPONSE TO MR. MEYER'S AND MS. FISCHER'S REBUTTAL**  
4 **TESTIMONY – COST AND LIABILITY ISSUES**

5 **Q. Staff Witnesses Greg Meyer and Janis Fischer raised concerns about the**  
6 **allocation of costs to AmerenCIPS as part of the Metro East Transfer. Please**  
7 **address their concerns.**

8 **A.** As I understand their testimony, they raise the following issues:

9 1. They want assurance that administrative and general (A&G") costs  
10 (i.e. overhead) that are allocated principally as a result of the services provided by  
11 Ameren Services to the various Ameren companies (such as AmerenUE and  
12 AmerenCIPS) will be allocated or reallocated fairly and appropriately after  
13 AmerenUE's Illinois load is transferred to AmerenCIPS. Their issue is that if the  
14 size of AmerenUE's operations is getting somewhat smaller, then AmerenUE's  
15 cost allocations should be reduced by a corresponding amount; and

16 2. They want assurance that liabilities, such as potential  
17 environmental liabilities or potential personal injury or property damage liabilities  
18 are fairly and appropriately allocated between AmerenUE and AmerenCIPS.

19 **Q. What is AmerenUE's response to these concerns?**

20 **A.** I want to be clear that the concerns that Mr. Meyer and Ms. Fischer raise are all  
21 questions about whether or not there may, or may not be, rate impacts to  
22 AmerenUE customers in the future once the AmerenUE rate moratorium is over  
23 in 2006. None of these concerns has anything to do with AmerenUE's ability to  
24 provide reliable and safe service after the Metro East Transfer. We therefore do

1 not believe that these concerns are necessary as part of the review by the  
2 Commission of whether the Metro East Transfer is detrimental to the public.  
3 AmerenUE therefore does not believe the Commission should impose any  
4 conditions in this regard on AmerenUE, nor does AmerenUE believe the  
5 Commission should deny approval of the Metro East Transfer on this basis.

6           However, AmerenUE has no objection to addressing their concerns, and is  
7 providing additional information to explain further that there will be no detriment  
8 to the public in Missouri on these issues. With regard to the allocation of A&G  
9 costs, Mr. Gary Weiss provides information in his Surrebuttal testimony on how  
10 we will ensure that such costs are allocated properly to reflect that AmerenUE  
11 will no longer have an Illinois jurisdiction after the Metro East Transfer occurs.  
12 As Mr. Weiss explains, we will ensure that all appropriate costs related to the  
13 Illinois operations being transferred will be allocated to AmerenCIPS. With  
14 regard to liabilities, Mr. Michael Getz discusses in his Surrebuttal how the  
15 Company will implement the terms of the Asset Transfer Agreement ("ATA")  
16 attached to my Direct Testimony. The ATA generally provides that AmerenUE  
17 would transfer to AmerenCIPS certain defined liabilities which arise before the  
18 closing and which relate to the operation of the "Business". The Business is  
19 basically defined as AmerenUE's electric utility transmission and distribution  
20 facilities together with its LDC gas utility facilities. (See Schedule 1 to my Direct  
21 Testimony, pp. 6-7) The ATA provides that a balance sheet will be prepared at  
22 closing and list all of the assets and liabilities of the Business. (Section 2.1(a);  
23 Schedule 1, p. 11) As Mr. Getz explains, the Company expects that the balance



1 sheet that it will prepare in accordance with the ATA will transfer to AmerenCIPS  
2 its proper and proportionate share of all of the Company's liabilities which arise  
3 before the closing and which relate to the Business. We believe that this is fair  
4 and appropriate, and further that it will impose no detriment to Missouri.

5 **Q. Mr. Meyer and Ms. Fischer also raised concerns about the price being paid**  
6 **by AmerenCIPS for the assets to be transferred. Please respond to their**  
7 **concerns.**

8 A. First, I believe their concerns stem from their belief that a fair allocation of  
9 liabilities to AmerenCIPS needs to occur. The clarifications and additional  
10 information which AmerenUE is providing as described above should adequately  
11 address those concerns so the transfer price should not be an issue. Second,  
12 whether the transfer price ought to be higher, lower, or remain as proposed, like  
13 many other issues raised by Staff, in any event has nothing to do with the issue  
14 that is before the Commission; namely, whether or not the transfer is detrimental  
15 to the public. The transfer will not have a detrimental impact on AmerenUE's  
16 ability to reliably and safely serve its customers, all of whom will be Missouri  
17 customers. The transfer will not have any material effect on AmerenUE's  
18 financial strength; in fact, the only evidence before the Commission through the  
19 direct, rebuttal and surrebuttal testimony that has been filed is that there are  
20 financial benefits associated with meeting AmerenUE's long-term generating  
21 needs by transferring the Illinois load to AmerenCIPS. With the exception of  
22 transmission assets that are used to serve the entire Ameren control area, all of the  
23 assets to be transferred have been used solely to serve Illinois customers. All of

1 those assets have been paid for solely by Illinois customers. As I explained in my  
2 Direct Testimony, the consideration to AmerenUE for the assets is designed to  
3 maintain the status quo so that there is no effect, one way or the other, on the  
4 capital structures of either AmerenUE or AmerenCIPS. If and to the extent Mr.  
5 Meyer or Ms. Fischer suggest that a higher price should be charged to  
6 AmerenCIPS, the only result of that higher price would be to potentially give  
7 Missouri customers a windfall for assets Missouri customers never paid for.

8 **V. RESPONSE TO MS. FISCHER – AFFILIATE TRANSACTION RULES**

9  
10 **Q. A substantial part of Ms. Fischer’s Rebuttal Testimony appears directed at**  
11 **arguing that the Commission’s affiliate transaction rules apply to the Metro**  
12 **East Transfer, and that AmerenUE’s evidence of compliance with those rules**  
13 **or in support of a variance or waiver from the requirements of those rules is**  
14 **inadequate. How do you respond?**

15 **A.** Ms. Fischer’s testimony in this regard is related to the “transfer price” issues I  
16 address above. It is my understanding that it is not at all clear that the affiliate  
17 transaction rules apply to the Metro East Transfer because the transfer is really  
18 nothing more than a reorganization of the business of two Ameren utility  
19 operating subsidiaries along state jurisdictional lines. I understood that the  
20 affiliate transaction rules were designed to prevent the regulated utility from  
21 subsidizing the operations of its non-regulated affiliates. As I explained earlier,  
22 the assets at issue were paid for by Illinois customers, and nothing about the  
23 proposed transaction subsidizes AmerenCIPS, regardless of the “transfer price”

1       used. Quite frankly, it does not make sense to apply the affiliate transaction rules  
2       here.

3       **Q.    You indicated that subsidization of AmerenCIPS is not an issue. If the**  
4       **Commission decides that the affiliate transaction rules do apply despite the**  
5       **lack of any subsidization, should the rules be waived?**

6       A.    Absolutely. We have presented evidence demonstrating that the transfer meets  
7       the not detrimental to the public standard. Therefore, by definition, Missouri  
8       customers are, at a minimum, not in any way harmed by the transfer.  
9       Furthermore, we have presented evidence that there is a net benefit from meeting  
10      AmerenUE's resource needs as proposed. Staff in particular raised some  
11      questions about how clearly that benefit was demonstrated, but the JDA condition  
12      which the Commission might impose would make what was already a winning  
13      proposal for Missouri before an even clearer winning proposition by a wide  
14      margin now. Even if we could (and we do not believe we can) figure out some  
15      "fair market value" for the assets, all that would do (if we assume, as Staff must,  
16      that the "fair market value" is higher than we have proposed) is produce an unfair  
17      windfall for Missouri at the expense of Illinois customers who have already paid  
18      for the assets to be transferred. If the transaction does not occur, Missouri will  
19      not benefit from the clearly least-cost generating resources we seek to make  
20      available to Missouri, nor will Missouri benefit from having a Missouri-only  
21      utility under its jurisdiction. Frankly, regulation of AmerenUE as a Missouri-only  
22      utility ought to make the regulatory process easier, and cheaper, for all – for the  
23      Commission, for Staff, for Public Counsel and for AmerenUE. That brings me

1 back to my original statement in my Direct Testimony – AmerenUE has no  
2 intention of “selling” the Metro East assets to a third party. Trying to apply the  
3 affiliate transaction rules to this transfer is like trying to force the proverbial  
4 square peg into a round hole – it doesn’t fit, and it can’t be made to fit. However,  
5 if it is insisted that an attempt be made to “make it fit,” a variance or waiver from  
6 the affiliate transaction rules is appropriate here. I therefore ask the Commission,  
7 to the extent it deems necessary, to consider the Company’s Application and my  
8 Direct and Surrebuttal Testimony to be a request for a variance, and ask that a  
9 variance be granted.

10 **VI. RESPONSE TO MR. GREG MEYER – DESCRIPTION OF THE ASSETS**  
11 **TO BE TRANSFERRED**

12  
13 **Q. Mr. Meyer indicates that Staff does not believe the list of assets to be**  
14 **transferred is adequate, and indicates that if authority for the Metro East**  
15 **Transfer is given, the authority should only extend to those assets listed on a**  
16 **specific list approved by the Commission. Please address Mr. Meyer’s**  
17 **contention regarding the adequacy of the asset list, and his suggested**  
18 **condition.**

19 **A.** Let me first say that I believe Staff was provided with, at or near the time Mr.  
20 Meyer filed his Rebuttal Testimony, a complete list of all fixed assets that would  
21 be transferred as those assets existed as of December 31, 2003. It is my  
22 understanding that Mr. Meyer had not seen that list when he prepared his Rebuttal  
23 Testimony. Perhaps the list he has been provided addresses this concern.  
24 Naturally, that list will change between December 31, 2003 and the closing (for  
25 example, a motor vehicle on the list may be replaced with a new one, or other

1 items may go into or come out of service). If Mr. Meyer still has concerns,  
2 however, then I disagree with the condition suggested in his Rebuttal Testimony.  
3 I disagree because requiring specific approval of only specific items on an item-  
4 by-item list is unrealistic, assumes incorrect facts about the terms of the ATA that  
5 governs the transaction, and is unnecessary in any event.

6 As with liabilities, the ATA provides that a schedule be prepared  
7 immediately before the closing that will detail all of the assets “used in or related  
8 to the operation of the Business at the Facilities.” (Section 1.2; Schedule 1, p. 9)  
9 In fact, as my Direct Testimony and the ATA provide, all assets owned by  
10 AmerenUE in the State of Illinois will be transferred with the exception of the few  
11 transmission assets described at lines 11 – 19 at page 7 of my Direct Testimony.  
12 As my Direct Testimony also states (P. 9 at l. 1-3), and except with regard to the  
13 two minor natural gas issues I mention above (as further explained in Mr. James  
14 Massmann’s Surrebuttal Testimony), none of the assets to be transferred, with the  
15 exception of transmission assets that are used to serve the entire Ameren control  
16 area, have ever been used to provide public utility service to AmerenUE’s  
17 Missouri retail customers. There is simply no reason to impose a burdensome  
18 requirement requiring AmerenUE to come back to the Commission to approve the  
19 transfer of a pump that might have accidentally been left off of the list, or to  
20 approve the transfer of a piece of equipment that replaced an older piece, etc. I  
21 respectfully submit that the Commission should not be, nor should it want to be,  
22 in the business of micro-managing the details of closing asset transfers to the  
23 degree apparently advocated by Staff.

1   **Q.     Did Mr. Meyer express any related concerns?**

2   A.     Yes. At page 16, l. 6-25 and page 17, l. 1-3 of his Rebuttal Testimony, Mr. Meyer  
3           objects to AmerenUE's request that the Commission's authorization allow  
4           AmerenUE to execute and perform documents that are "incidental" to the transfer.  
5           Mr. Meyer also objects to our request that the Commission grant any other relief  
6           "deemed necessary" by the Commission to accomplish the transfer.

7   **Q.     Do you understand Mr. Meyer's concerns?**

8   A.     Honestly, no. I have been involved in a number of asset transfers, both between  
9           affiliated companies and with third parties, and I believe every agreement I have  
10          ever seen provided for the ability to execute documents that are necessary to  
11          conclude that transaction and that are incidental to it. An example might be the  
12          need to sign a lease assignment document for a real estate lease currently in  
13          AmerenUE's name that will need to be assigned to AmerenCIPS. Another  
14          example might be the need to sign a governmental agency's form to transfer a  
15          permit. Our request does not allow any material change to the terms of the  
16          transfer – the document must be incidental to the transactions "which are the  
17          subject of the form of the Asset Transfer Agreement," a copy of which is  
18          Schedule I to my Direct Testimony. That Agreement is quite specific in  
19          describing the asset transfer. Again, unless the Commission wants us back before  
20          it for every minute detail of effectuating the transfer, our request should be  
21          granted as necessary to implement the Commission's order approving the transfer.

1    **Q.     Can you comment on item 2) mentioned by Mr. Meyer on page 16 of is**  
2           **Rebuttal Testimony regarding the Company's request for the Commission to**  
3           **grant further relief?**

4    A.    Yes. This concern is even more puzzling. We simply asked the Commission to  
5           grant whatever further relief the Commission thinks is necessary to accomplish  
6           the transfer.

7    **Q.     Are Mr. Meyer's concerns consistent with past Commission practice with**  
8           **regard to these issues?**

9    A.    No. In fact, he expresses concerns that the Commission has expressly rejected.  
10          In the Commission's October 12, 1994 Report and Order in Case No. GM-94-  
11          252, an asset transfer case involving Missouri Gas Company, an intervenor  
12          objected to what was the Commission's standard language authorizing the parties  
13          to the transfer to engage in all "related transactions" necessary to complete the  
14          transfer. The Commission rejected those concerns because it allowed the parties  
15          to have the authority they need to proceed with the transaction "without seeking  
16          Commission approval for every detail." That is all we have asked for in this case.

17   **VII.    ISSUES RELATING TO "HOLD HARMLESS" CONDITION RELATING**  
18           **TO ILLINOIS TRANSMISSION ASSETS**

19   **Q.     Both Dr. Proctor and Staff witness Alan Bax express certain potential**  
20           **concerns about transmission costs on transmission lines that will be**  
21           **transferred to AmerenCIPS as part of the Metro East Transfer. Is**  
22           **AmerenUE able to address those concerns?**

23   A.    Yes. As I have discussed with other issues, the Company believes that these  
24           concerns relate to future, possible impacts that might result from the Transfer. As  
25

1 a result, we do not believe that the Commission needs to address them here. In  
2 any case, we do not believe that it is necessary for a hold harmless commitment as  
3 requested by Staff. As discussed in more detail in Mr. Edward Pfeiffer's  
4 testimony, the Transfer should have no impact whatsoever on AmerenUE's ability  
5 or cost to transmit power from its generation located in Illinois into Missouri to  
6 serve its bundled load. Therefore, we do not believe it is necessary to make any  
7 such commitment.

8 **VIII. RESPONSE TO MR. RYAN KIND'S REBUTTAL TESTIMONY**  
9

10 **Q. In opposing the Metro East Transfer, Public Counsel witness Ryan Kind**  
11 **includes a number of allegations, or expressions of what he "believes" or**  
12 **"thinks", all of which seem to revolve around the fact that AmerenUE is part**  
13 **of the holding company structure approved by the Commission in Case No.**  
14 **EM-96-149. How do you respond?**

15 **A.** I am quite certain that there is little that I or anyone else at AmerenUE can say  
16 that would change Mr. Kind's oft-repeated criticism of the way Ameren  
17 Corporation and its subsidiaries, including AmerenUE, have structured their  
18 businesses. I note that he makes these criticisms despite the fact that this  
19 Commission approved the merger of Union Electric and CIPSCO Incorporated,  
20 which led to the creation of Ameren Corporation and the holding company  
21 structure seven years ago in Case No. EM-96-149. I would also note that the  
22 OPC was a signatory to the Stipulation and Agreement in Case No. EM-96-149 in  
23 which the parties recommended that the Commission approve the merger. As a  
24 result, it appears that Mr. Kind's criticisms of Ameren's holding company



1 structure are inconsistent with OPC's support for the Stipulation in the UE-  
2 CIPSCO merger case.

3 In any case, it has been our experience that Mr. Kind often raises these  
4 same issues, particularly when he has no independent evidence to rebut head-on  
5 the evidence presented by AmerenUE. Most of his criticisms are not relevant to  
6 whether the particular transfer at issue in this case is or is not detrimental to the  
7 public. I do feel compelled, however, to respond specifically to a few of Mr.  
8 Kind's points.

9 **Q. Please continue.**

10 A. Mr. Kind, after stating what he "believes" to be true (at p. 5, l. 10, 24 of his  
11 Rebuttal Testimony), speculates about the basis for my Direct Testimony relating  
12 to the purposes of the proposed Metro East Transfer. The transfer of the  
13 Pinckneyville and Kinmundy plants, which is supported by this Commission itself  
14 in terms of its being consistent with the Stipulation in EC-2002-1, is not an issue  
15 in the present case because that transfer does not impact the question of whether  
16 the Metro East Transfer is detrimental to the public. To the extent then that Mr.  
17 Kind spills much ink debating issues relating to Pinckneyville and Kinmundy I  
18 would agree that I not only "prefer" that those transfers not be an issue, but I  
19 would submit that they in fact are not an issue because they do not bear on  
20 whether or not the Metro East Transfer is detrimental.

21 **Q. Is Mr. Kind correct that Mr. Baxter's comments to the Edison Electric**  
22 **Institute are "inconsistent" with your Direct Testimony?**

1     A.     No. When discussing the reasons for the transfer, Mr. Baxter cited the desire to  
2           simplify what is today dual regulation of AmerenUE's business by the ICC and  
3           by this Commission, and he also cited the desire to facilitate the transfer of  
4           Pinckneyville and Kinmundy. I cited the desire to align AmerenUE's business  
5           with the "regulatory regimes" in each state and the need to find a good way to  
6           meet AmerenUE's long-term capacity and energy needs. With regard to  
7           regulation in two separate states, I chose different words, but my reasons are the  
8           same as Mr. Baxter's. With regard to meeting resource needs, Mr. Baxter was  
9           focused on one way that AmerenUE is meeting its resource needs – the transfer of  
10          Pinckneyville and Kinmundy, a transfer that Missouri supports. I, not  
11          surprisingly since it is the subject of this case, discussed another part of meeting  
12          those resource needs -- freeing up AmerenUE generation to serve Missouri load  
13          by shedding AmerenUE's Illinois load. Mr. Kind is simply engaged in  
14          "conspiracy theory" thinking. If any Ameren entity – whether it be Ameren  
15          Corporation, AmerenCIPS, or Ameren Energy Marketing -- may gain some  
16          benefit from a decision by AmerenUE, AmerenUE "must" somehow lose, or so  
17          Mr. Kind apparently believes. AmerenUE does not "lose" in the proposed  
18          transfer. In fact, AmerenUE wins, although all we have to show is that  
19          AmerenUE does not lose. We have done so, and more, Mr. Kind's "beliefs,"  
20          "thoughts" and other speculation, notwithstanding.

21     **Q.     Mr. Kind contends that AmerenUE should assume that it will renew its**  
22           **contract with Electric Energy Inc. ("EEInc.") for the supply of power.**  
23           **Please respond.**

1     A.     Once again, Mr. Kind raises an “issue” that is not an issue in this case. Let me  
2     begin my response by reciting a series of facts:

- 3             1.     AmerenUE owns 40% of the shares of common stock of EEInc.
- 4             2.     AmerenUE does not own EEInc.’s generating plants.
- 5             3.     EEInc.’s generating plants have never been included in the  
6                 Company’s rate base in Missouri.
- 7             4.     The power purchase costs under the EEInc./AmerenUE power  
8                 supply agreement have been included in cost of service, as have  
9                 costs from other purchased power contracts.
- 10            5.     EEInc. is an Illinois corporation and all of its assets are located in  
11                 Illinois.
- 12            6.     I understand that the Commission does not have jurisdiction over  
13                 EEInc. – it is not a regulated utility in Missouri.
- 14            7.     As explained by Mr. Voytas, EEInc. has chosen not to bid on  
15                 AmerenUE RFP’s for power supply.
- 16            8.     The EEInc./AmerenUE power supply agreement expires on  
17                 December 31, 2005.

18            Accordingly, it is not proper, nor does it make any sense whatsoever, for  
19     the Commission to order UE to compel EEInc. to enter into a contract to sell UE  
20     power at cost based rates. What Mr. Kind is proposing is reverse affiliate abuse,  
21     as discussed by Mr. Voytas. The Commission’s affiliate rules suggest EEInc.  
22     must sell to AmerenUE at the lower of cost or market unless a waiver is obtained.  
23     EEInc. is not able to sell at a price less than market price and still act responsibly

1 to its shareholders. As a result, the Commission's affiliate rules serve to deter  
2 EEInc. and UE from entering into the contract desired by Mr. Kind. For all these  
3 reasons, the Commission should not impose a condition on AmerenUE that it  
4 unilaterally enter into a contract that EEInc. is unwilling to enter into.

5 **Q. Does this conclude your surrebuttal testimony?**

6 **A.** Yes, it does.

**DIRECT TESTIMONY**  
**OF**  
**MICHAEL S. PROCTOR**  
**UNION ELECTRIC COMPANY**  
**d/b/a AMERENUE**  
**EC-2002-1**

Q. What is your name and business address?

A. My name is Michael S. Proctor. My business address is 200 Madison St.,  
P.O. Box 360, Jefferson City, Missouri 65102-0360.

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

A. I am employed by the Missouri Public Service Commission (Commission)  
as Manager of Economic Analysis in the Energy Department.

Q. Have you previously filed direct testimony in this case?

A. No.

Q. What is your education background and work experience?

A. I have Bachelors and Masters of Arts Degrees in Economics from the  
University of Missouri at Columbia, and a Ph.D. degree in Economics from Texas A&M  
University. My previous work experience has been as an Assistant Professor of  
Economics at Purdue University and at the University of Missouri at Columbia. Since  
June 1, 1977, I have been on the Staff of the Commission and have presented testimony  
on various issues related to weather normalized energy usage and rate design for both  
electric and natural gas utilities. With respect to electric issues, I have worked in the  
areas of load forecasting, resource planning and transmission pricing. In 1997 and 1998,

1 I served as the Staff Vice Chair of the Market Structure and Market Power working group  
2 of the Commission's Task Force on Retail Competition. From December of 2000 until  
3 the Southwest Power Pool's (SPP's) application as a Regional Transmission Organization  
4 (RTO) was rejected by the Federal Energy Regulatory Commission in the summer of  
5 2001, I served as chairman of the Forward Congestion Markets Subgroup of the SPP's  
6 Congestion Management Systems Working Group.

7 Q. What are your current duties in the Energy Department as Manager of  
8 Economic Analysis?

9 A. I supervise the Economic Analysis group within the Energy Department.  
10 This group is responsible for various issues related to weather normalization of sales,  
11 class cost of service and rate design. I am also responsible for the review of the  
12 economic analysis performed by Missouri, investor-owned, electric utilities for their  
13 resource plans. In addition to my supervisory role, I have focused my attention on the  
14 development and structure of RTOs for the purpose of increasing efficiency and  
15 reliability in the competitive supply of electricity. Because of the restructuring of the  
16 electric industry toward the increased competitive supply of electricity, I have also  
17 focused on the issue of market power within the electric industry.

## 18 **RECOMMENDATIONS**

19 Q. In this instant case, what is the purpose of your direct testimony?

20 A. My direct testimony in this case addresses issues with respect to the  
21 Ameren Joint Dispatch Agreement (JDA) between Union Electric Company (UE or  
22 AmerenUE) and Ameren Energy Generating Company (AEG), the exempt wholesale  
23 generator that now owns the generation assets of Central Illinois Public Service Company

1 (CIPS or AmerenCIPS) and Ameren Energy Marketing (AEM), the marketing  
2 representative for AEG. In addition, I will address issues related to how UE met its  
3 reserve requirement for the summer of 2001, which the Commission has included in its  
4 update period for this case.

5 Q. What is your recommendation regarding the JDA?

6 A. The current Ameren JDA is deficient and, as a consequence, its terms  
7 should not be followed with respect to setting the revenue requirements for UE's  
8 Missouri retail customers. The Ameren JDA allocates the monthly profit margins from  
9 Off-System Sales between UE and AEG/AEM, according to UE's and AEG/AEM's  
10 share of monthly Load Requirements. As I will further explain in my direct testimony,  
11 this is an inequitable allocation of profits from Off-System Sales and therefore, at a  
12 minimum, the monthly profit margins from Off-System Sales should be allocated based  
13 on the contribution of UE's and AEG/AEM's share of monthly energy from Resources  
14 jointly used to meet Load Requirements plus Off-System Sales. In brief, I am  
15 recommending that UE's allocation of monthly profit margin be increased because of the  
16 lost opportunity to sell into the wholesale electricity market that UE experiences when it  
17 transfers electricity from its cheaper resources to meet the Load Requirements for  
18 AEG/AEM.

19 Q. What is your recommendation regarding UE meeting its capacity reserve  
20 requirement for the summer of 2001?

21 A. The current Ameren JDA has no explicit pricing for capacity transfers  
22 between UE and AEG/AEM as may be necessary for each entity to meet a minimum  
23 capacity reserve requirement. Reserve requirements are necessary to maintain adequate

1 levels of generation capacity to provide reliable supplies of electricity to Ameren (UE  
2 and CIPS) customers at reasonable prices. As will be explained further in my direct  
3 testimony, the lack of such conditions, along with an implicit Ameren policy to build new  
4 generation capacity in AEG rather than in UE, leads to the possibility of affiliate abuse.  
5 Affiliate abuse occurs when such policies place the regulated company (UE), in situations  
6 where in order to have adequate capacity, it must purchase capacity and energy from the  
7 unregulated affiliate (AEG) or its marketing agent (AEM) at market prices, that are  
8 higher than what would otherwise be the regulated cost of that same capacity and energy.  
9 Because this situation of paying market price when it is higher than cost occurs for the  
10 capacity purchased by UE for June, 2001 through May, 2002, I am recommending that  
11 the cost of the capacity purchases made by UE to meet its reserve requirements for its  
12 summer 2001 peak be replaced with the cost of building, operating and maintaining  
13 combustion turbines identical to those brought on line in 2001 by AEG at Columbia,  
14 Missouri and Pinkneyville, Illinois.

15 **JOINT DISPATCH AGREEMENT - ALLOCATIONS**

16 Q. What is a JDA?

17 A. A JDA is an agreement (contract) that sets out all of the conditions by  
18 which two or more (usually affiliate) companies will jointly dispatch their electric supply  
19 resources (Resources) and Off-System Purchases to meet their joint load, including both  
20 Load Requirements and Off-System Sales. Resources include both Generating Resources  
21 and longer-term purchase power contracts for capacity and energy. The Ameren JDA  
22 defines: 1) Generating Resources as " all power generating facilities owned by a Party  
23 available to meet the capacity and energy needs of the Parties;" 2) Load Requirements as



**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing has been sent to all parties of record this 1st day of March, 2004 by electronic mail (e-mail) or U.S. Mail.

**/s/ Joseph H. Raybuck**