

Exhibit No.:
Issues: True-Up Items
Witness: Gary S. Weiss
Sponsoring Party: Union Electric Company
Type of Exhibit: True-Up Rebuttal Testimony
Case No.: ER-2012-0166
Date Testimony Prepared: October 22, 2012

MISSOURI PUBLIC SERVICE COMMISSION

CASE NO. ER-2012-0166

TRUE-UP REBUTTAL TESTIMONY

OF

GARY S. WEISS

ON

BEHALF OF

**UNION ELECTRIC COMPANY
d/b/a Ameren Missouri**

**St. Louis, Missouri
October, 2012**

TRUE-UP REBUTTAL TESTIMONY

OF

GARY S. WEISS

CASE NO. ER-2012-0166

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

2 A. My name is Gary S. Weiss. My business address is One Ameren Plaza,
3 1901 Chouteau Avenue, St. Louis, Missouri 63103.

4 **Q. Are you the same Gary S. Weiss that previously filed testimony on behalf**
5 **of Union Electric Company d/b/a Ameren Missouri (“Ameren Missouri” or**
6 **“Company”) in this proceeding, including true-up direct testimony?**

7 A. Yes, I am.

8 **Q. What is the purpose of your true-up rebuttal testimony in this**
9 **proceeding?**

10 A. To respond to the true-up direct testimony of Office of the Public Counsel
11 (“OPC”) witness Ted Robertson regarding rate case expense.

12 **Q. What is the scope of your response to Mr. Robertson’s testimony?**

13 A. While I will not engage in further argument about OPC’s punitive proposal to
14 disallow all of the Company’s prudently incurred rate case expenses for outside consultants,
15 witnesses and counsel, as the record related to those arguments has already been developed
16 through prior testimony,¹ I do take issue with Mr. Robertson’s characterization of the actual
17 level of rate case expense incurred by the Company in this case.

18

¹ Ameren Missouri witness Lynn M. Barnes has rebutted Mr. Robertson’s rate case expense position in her pre-filed testimonies and through testimony during the evidentiary hearings.

1 **Q. Please explain.**

2 A. As is always the case, at the time a rate case is filed, it is impossible to
3 precisely quantify the rate case expenses that will be incurred for the case at issue since only
4 expenses relating to preparing the initial filing will have been incurred. Historically, the
5 Company's practice has been to include its best estimate of the rate case expenses it would
6 expect to incur for the case in its initial filing. The Staff has taken a similar approach by
7 including what Staff believes to be a reasonable, normalized level of rate case expense in its
8 direct case filing. In this case, the Company's initial filing included an estimate of \$1.903
9 million and the Staff's direct case filing included \$1 million.

10 **Q. Has the Company's initial estimate changed?**

11 A. Yes. In response to the Staff's claim that a reasonable, normalized level of
12 rate case expense should be \$1 million, the Company re-examined its estimate and looked to
13 the recent historical, actual rate case expenses over the last three rate cases, and the period of
14 time rates were in effect between those rate cases. That analysis indicated that a reasonable,
15 normalized level of rate case expense is \$1.538 million, as explained in Ms. Barnes' rebuttal
16 testimony. An advantage of this approach is that it does not depend only upon the estimated
17 rate case expenses for the current case. The rate case expense calculation is also supported
18 by the Company's recent experience in previous rate cases. This is an advantage because, as
19 a practical matter, there is no way, within the rate case at issue, to actually quantify the actual
20 rate case expenses, which is why the Company and the Staff have often used estimates.

21 **Q. Why is it impractical to quantify the actual rate case expenses for the case**
22 **at issue?**

1 A. A rate case consists of five distinct phases, as follows: (1) pre-filing
2 preparation/initial filing; (2) discovery until the other parties file their direct cases; (3)
3 rebuttal and surrebuttal to the other parties' direct cases; (4) pre-hearing discovery,
4 preparation, and evidentiary hearings; and (5) true-up, briefing, and compliance tariff
5 preparation and filing. Typically (and as was true in this case) only phases (1), (2) and a
6 small part of phase (3) can occur prior to the true-up cutoff date in the case. However,
7 phases (4) and (5) require by far the most time and effort and thus result in the greatest
8 proportion of the expenses. There are two ways to best address these practical realities, the
9 use of estimates as the Company and the Staff have typically done, or use of history, as the
10 Company has done in this case.

11 **Q. What does Mr. Robertson contend should be done?**

12 A. Putting aside his substantive opposition to allowing almost any rate case
13 expense at all, he sets-up a construct that virtually ensures that the Company could never
14 have reflected in rates a reasonable level of rate case expense because of the practical issues
15 discussed above. The construct he sets up is one which apparently would limit rate case
16 expense to actual expenses incurred through the end of the true-up cutoff period, but as
17 noted, this means that the vast majority of the rate case expense could never be accounted for
18 and recovered since it occurs after the true-up cutoff period ends.

19 **Q. How do the Company's actual expenditures incurred so far compare to**
20 **expenditures paid as of July 31, 2012?**

21 A. As of July 31, 2012, the Company had actually paid \$394,339 in rate case
22 expense, but that sum only reflected invoices through June 2012. This is because there is a
23 lag between when the services are provided and when invoices are received and paid (e.g.,

1 typically, work done in June is not invoiced until mid- to late-July). This means that through
2 the true-up cutoff date no work on phases (3) through (5) of the rate case had occurred.

3 **Q. What level of rate case expenses have been incurred to-date?**

4 A. Through October 19, 2012, the Company has received invoices for a total of
5 \$1,199,340. These invoices reflect work done primarily through August of this year,
6 although we have received one invoice for work in September, 2012. In other words, a
7 substantial portion of the work for phase (3) and all of the work for phases (4) and (5) is still
8 not reflected in the \$1,199,340.

9 **Q. Do you have any other comments in response to Mr. Robertson's true-up**
10 **direct testimony?**

11 A. Yes, I do. Mr. Robertson apparently criticizes the Company for what he calls
12 a "late accumulation" of costs (at pages 3-4 of his true-up direct testimony). As I explained
13 above, the reason that costs are "accumulated late" is a function of how a rate case works. I
14 will agree that we had intended to provide an additional supplement to the rate case data
15 request response which tracked all rate case expenses (Data Request No. 173) through the
16 true-up cutoff date, but inadvertently failed to do so. Had we done so it would have reflected
17 that the \$297,198 figure cited by Mr. Robertson at page 2 of his true-up direct testimony
18 would have grown to approximately \$394,000 for invoices paid through July 31, 2012. But
19 as I also noted earlier, invoices paid through the true-up cutoff date fail to reflect the vast
20 majority of the work in the case. As of that time, neither rebuttal nor surrebuttal testimony
21 had been prepared or filed, the majority of the local public hearings had not occurred,
22 substantial discovery was not yet complete, hearing preparation had not begun, hearings had
23 not occurred, and post-hearing activities had not started.

1 **Q. Please summarize your testimony.**

2 A. For work completed primarily through August of this year, the Company has
3 incurred approximately \$1.2 million of rate case expenses, and this fails to account for
4 substantial work in September for which invoices have not been received, plus substantial
5 post-hearing work which has not even occurred. Mr. Robertson's criticism of the
6 information available prior to the time when the vast majority of the work in the case even
7 starts is irrelevant.

8 **Q. Does this conclude your true-up rebuttal testimony?**

9 A. Yes, it does.

