

Exhibit No.:

Issue(s):

Witness/Type of Exhibit:

Sponsoring Party:

Case No.:

Fuel Adjustment Clause

Kind/Additional Direct

Public Counsel

ER-2010-0036

ADDITIONAL DIRECT TESTIMONY

OF

RYAN KIND

Submitted on Behalf of
the Office of the Public Counsel

UNION ELECTRIC COMPANY D/B/A AMERENUE

Case No. ER-2010-0036

Denotes Highly Confidential Information that has been redacted.

February 22, 2010

NP

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

In the Matter of Union Electric Company)
d/b/a AmerenUE for Authority to File)
Tariffs Increasing Rates for Electric)
Service Provided to Customers in the)
Company's Missouri Service Area.)

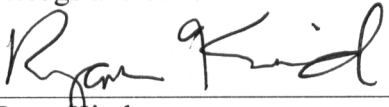
Case No. ER-2010-0036

AFFIDAVIT OF RYAN KIND

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

Ryan Kind, of lawful age and being first duly sworn, deposes and states:

1. My name is Ryan Kind. I am a Chief Utility Economist for the Office of the Public Counsel.
2. Attached hereto and made a part hereof for all purposes is my additional direct testimony.
3. I hereby swear and affirm that my statements contained in the attached affidavit are true and correct to the best of my knowledge and belief.




Ryan Kind

Subscribed and sworn to me this 22nd day of February 2010.



JERENE A. BUCKMAN
My Commission Expires
August 23, 2013
Cole County
Commission #09754037



Jerene A. Buckman
Notary Public

My commission expires August 23, 2013.

ADDITIONAL DIRECT TESTIMONY
OF
RYAN KIND
UNION ELECTRIC COMPANY
CASE NO. ER-2010-0036

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

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

4 **Q. ARE YOU THE SAME RYAN KIND THAT HAS PREVIOUSLY FILED (1) DIRECT TESTIMONY**
5 **REGARDING CLASS COST OF SERVICE (CCOS) AND RATE DESIGN ISSUES AND (2)**
6 **REBUTTAL TESTIMONY IN THIS CASE?**

7 A. Yes.

8 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

9 A. The purpose of this testimony is to respond to the Commission's February 17, 2010 order
10 titled "Order Directing the Parties to Submit Testimony Concerning the Appropriateness
11 of AmerenUE's Current Fuel Adjustment Clause." In that order the Commission stated
12 that it "wants to hear from the parties concerning the appropriateness of AmerenUE's
13 current fuel adjustment [clause]." The order also requested "the parties in their testimony
14 to review AmerenUE's current fuel adjustment clause and advise the Commission
15 whether the current 95 percent pass through mechanism: 1) affords AmerenUE a
16 sufficient opportunity to earn its authorized return on equity, and/or 2) provides

AmerenUE with a sufficient financial incentive to be prudent in and take reasonable efforts to minimize its fuel and purchased power costs.”

Q. HAS PUBLIC COUNSEL REACHED ANY GENERAL CONCLUSIONS REGARDING THE APPROPRIATENESS OF THE FUEL ADJUSTMENT CLAUSE (FAC) THAT THE UNION ELECTRIC COMPANY (UE OR THE COMPANY) HAS HAD IN PLACE FOR APPROXIMATELY ONE YEAR ?

A. Public Counsel believes that, from a general perspective, the FAC mechanism currently in place for UE does not provide sufficient incentive for the Company to minimize UE’s fuel procurement costs and maximize the margins gained from off-system sales (OSS). OPC believes that, at a maximum, UE should be able to recover 80% of its variations from the baseline level of fuel costs (net of OSS margins) that was set in the Company’s most recent rate case. Unless UE has at least this much “skin in the game” (i.e. 20%), ratepayers cannot be assured that UE is making its best efforts to minimize its fuel procurement costs and maximize its OSS margins. Ratepayer confidence that UE is making its best efforts to minimize fuel costs is especially important under the current circumstances where UE’s customers are once again faced with the prospect of a double digit rate increase at the same time many of these same customers are experiencing the impact of global economic problems on their household budgets.

Q. HAS PUBLIC COUNSEL REACHED ANY GENERAL CONCLUSIONS AS TO WHETHER THE FAC THAT UE HAS HAD IN PLACE FOR APPROXIMATELY ONE YEAR HAS PROVIDED UE “WITH A SUFFICIENT FINANCIAL INCENTIVE TO BE PRUDENT IN AND TAKE REASONABLE EFFORTS TO MINIMIZE ITS FUEL AND PURCHASED POWER COSTS?”

A. OPC has not focused the limited resources that we have available for this case on performing a comprehensive audit of UE’s current procedures and practices in the fuel

1 procurement and OSS areas. Assembling the resources to perform such an audit would be
2 nearly impossible under the current budget and resource constraints faced by Public
3 Counsel. Even if OPC had sufficient resources available to perform this audit, the audit
4 would have needed to be well under way several months prior to the date that the
5 Commission issued its order last week requesting parties to address the FAC issue.

6 **Q. DESPITE NOT FOCUSING RESOURCES ON THE FAC ISSUE, HAS PUBLIC COUNSEL**
7 **BECOME AWARE OF SOME CONCERNS RELATED TO THE OPERATION OF UE'S FAC?**

8 A. Yes. There are a couple of concerns with the current operation of the FAC that OPC
9 wishes to share with the Commission. First, during the Technical Conference for this
10 case in the week of January 11 – 15, OPC first learned that when the Noranda load was
11 lost due to an ice storm in January 2009, UE apparently **

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21 **Q. WHAT OTHER CONCERNS HAS PUBLIC COUNSEL BECOME AWARE OF REGARDING THE**
22 **OPERATION OF UE'S FAC?**

23 A. Public Counsel expressed concerns in the last UE rate case that the Company was
24 attempting to remove certain OSS revenues from its revenue requirement by asserting

1 that certain non-asset based trading operations were “non-regulated.” OPC still has that
2 concern and the Company’s response to OPC DR No. 2021 indicates that the Company is
3 attempting to shield substantial OSS margins from rates, effectively creating a new “non-
4 regulated” profit center for UE which portrays itself as a regulated utility. While UE’s
5 response to OPC DR No. 2021 does reveal the magnitude of profits that UE has recently
6 derived from its non-asset based trading operations, UE has **not** provided information
7 that OPC has explicitly requested in OPC DR 2021 on the actual costs and revenues
8 associated with these trading activities.

9 In addition to OPC’s concern that UE is attempting to create a separate non-regulated
10 profit center for OSS where the benefits of this activity are diverted from ratepayers to
11 shareholders, there is a related concern that having UE’s power trading shop (AM&T)
12 involved in this “non-regulated” work activity may be distracting AM&T from making its
13 best efforts to achieve positive outcomes from the regulated OSS activities. Of course,
14 the mixture of regulated and “non-regulated” activities always raises concerns about
15 affiliate transactions and the proper allocation of costs between regulated and “non-
16 regulated” activities.

17 **Q. HAS UE PROVIDED TESTIMONY IN THIS CASE TO SUPPORT THE CONTENTION THAT THE**
18 **EXISTING 95%:5% SHARING MECHANISM IN ITS CURRENTLY APPROVED FAC**
19 **PROVIDES THE UTILITY WITH A SUFFICIENT FINANCIAL INCENTIVE TO BE PRUDENT IN**
20 **AND TAKE REASONABLE EFFORTS TO MINIMIZE ITS FUEL AND PURCHASED POWER**
21 **COSTS AND MAXIMIZE OSS MARGINS FOR THE BENEFIT OF RATEPAYERS?**

22 **A. No.**

23 **Q. DOES THIS CONCLUDE YOUR ADDITIONAL DIRECT TESTIMONY?**

Additional Direct Testimony of
Ryan Kind

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A. Yes.