

Exhibit No.:  
Issue(s): Interim Rates  
Witness: Gary S. Weiss  
Sponsoring Party: Union Electric Company  
Type of Exhibit: Rebuttal Testimony  
Case No.: ER-2010-0036  
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**MISSOURI PUBLIC SERVICE COMMISSION**

**Case No. ER-2010-0036**

**REBUTTAL TESTIMONY ON INTERIM RATES**

**OF**

**GARY S. WEISS**

**ON**

**BEHALF OF**

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

**St. Louis, Missouri  
November, 2009**

1                                   **REBUTTAL TESTIMONY ON INTERIM RATES**

2   **OF**

3   **GARY S. WEISS**

4   **CASE NO. ER-2010-0036**

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

6           A.     My name is Gary S. Weiss. My business address is 1901 Chouteau Avenue,  
7 Saint Louis, Missouri 63103.

8           **Q.     Are you the same Gary S. Weiss who filed direct testimony on July 24,**  
9 **2009 and also direct testimony on interim rates on October 20, 2009 in this case?**

10          A.     Yes, I am.

11          **Q.     What is the purpose of your rebuttal testimony on interim rates?**

12          A.     The purpose of my rebuttal testimony on interim rates is to respond to the  
13 direct testimonies filed on November 3, 2009 by Staff witness Stephen Rackers and by  
14 Missouri Industrial Energy Consumer's ("MIEC") witness Michael Gorman.

15          **Q.     What are your comments regarding Staff witness Stephen Rackers'**  
16 **testimony?**

17          A.     Mr. Rackers' testimony simply verifies my calculations of net plant additions  
18 and the depreciation, return and income tax rates that I used to calculate the revenue  
19 requirement that underlies the Company's interim rate increase request. Mr. Rackers'  
20 testimony indicates that the Staff takes no issue with the Company's calculations.

21          **Q.     What are your comments concerning MIEC witness Michael Gorman's**  
22 **testimony?**

1           A.       First, Mr. Gorman has characterized AmerenUE’s request for interim rates as  
2 an effort to “eliminate all aspects of regulatory lag.” (Gorman Interim Rates Direct, p. 11,  
3 line 22). This is simply not true. AmerenUE’s request to implement interim rates (subject to  
4 refund with interest) in an amount that reflects the revenue requirement associated with the  
5 cost of facilities it has already placed in service only addresses a small part of the regulatory  
6 lag the Company is experiencing. For the last twelve months (October 2008 through  
7 September 2009) the Company has fallen short of the return on equity (“ROE”) authorized  
8 by the Commission just nine months ago by an average of 437 basis points, or approximately  
9 \$200 million. See Schedule GSW-E24 attached to this testimony.<sup>1</sup> However, the Company is  
10 only requesting less than one-fifth of that amount – just \$37.3 million – in its interim rate  
11 request.<sup>2</sup>

12           **Q.       Mr. Gorman argues that regulatory lag is beneficial. Is he correct?**

13           A.       To a certain degree, yes. As AmerenUE witness Warner L. Baxter  
14 acknowledged in his direct testimony on interim rates, regulatory lag can help focus utility  
15 management on cost containment. But an excessive amount of regulatory lag, like the level  
16 of regulatory lag AmerenUE is experiencing, discourages investment and is detrimental to  
17 both the utility and its customers.

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<sup>1</sup> These numbers also demonstrate the fallacy of a suggestion made by Mr. Gorman at page 7, lines 1-5, of his direct testimony on interim rates. Mr. Gorman suggests that my numbers understate the returns because, in his words, “AmerenUE’s revenue collection are more heavily weighted in the third quarter . . .” The earned returns I report are all 12-month rolling averages, which means that all such returns already include a third quarter. Moreover, even after fully accounting for the results for the 3<sup>rd</sup> quarter of *this* year, AmerenUE’s earned returns continue to fall far short of its authorized return. In fact, AmerenUE’s average earned returns for the 3<sup>rd</sup> quarter were just 5.88%, versus 5.97% for the entire first nine months of 2009.

<sup>2</sup> In fact, given the delay in implementing interim rates, the potential amount the Company could recover from interim rates in this case is far less than the \$37.3 million request, which would be the amount recovered over a 12-month period.

1           **Q.     Mr. Gorman argues that your comparison of AmerenUE’s actual earned**  
2 **return on equity with the last authorized return on equity does not support the**  
3 **Company’s request for interim rate relief. Is he correct?**

4           A.     No. The fact the AmerenUE’s earned returns on equity consistently fall far  
5 short of its authorized returns indicates that the Company is being hurt by excess regulatory  
6 lag and that the Company does not have a reasonable chance to earn a fair rate of return.

7           **Q.     Will the actual earned rates of return exactly match the authorized**  
8 **returns?**

9           A.     No. Mr. Gorman is correct regarding the general principle that actual earned  
10 rates of return over any given period will not exactly match the authorized return. As Mr.  
11 Gorman points out there are some differences—cost disallowances from the last rate case,  
12 Taum Sauk lost revenues, annualization of the rate increase, non-recurring events—that  
13 would explain part of the difference between the AmerenUE’s earned and authorized returns.  
14 But as I discuss below, there are other items, not mentioned by Mr. Gorman, that suggest that  
15 the difference between AmerenUE’s earned ROE and its Commission authorized ROE  
16 should be greater. In fact, even if all of the items Mr. Gorman mentions are taken into  
17 account, there remains a very substantial difference between the Company’s adjusted earned  
18 returns and its recently authorized return.

19           **Q.     Have you calculated the impact of the factors identified by Mr. Gorman?**

20           A.     Yes. I have made upward adjustments to the AmerenUE earned returns for  
21 each of the twelve month ending periods of October 2008 through September 2009 to reflect  
22 the following items: (i) a full twelve months of the rate increase; (ii) additional revenues that  
23 would have existed if the Taum Sauk plant had been in operation (which I had already taken

1 into account in my direct testimony on interim rates); (iii) the impact of the January 2009 ice  
2 storm on operations and maintenance (“O&M”) expense; (iv) revenues from Noranda  
3 Aluminum, Inc. assuming normal load; and (v) an adjustment to account for the \$14 million  
4 in disallowances from the trued-up test year expenses from the last rate case that were  
5 identified by Mr. Gorman in his direct testimony on interim rates.

6 **Q. What is the impact of those adjustments on AmerenUE’s earned rate of**  
7 **return?**

8 A. These one-way adjustments would only raise the average earned return on  
9 equity for the twelve monthly periods ending October 2008 through September 2009 from  
10 6.16% to 7.70%. See Schedule GSW-E25 attached to this testimony. This adjusted average  
11 earned return on equity is still 282 basis points below the authorized returns. This equates to  
12 an approximately \$130 million per year shortfall between the Company’s actual earnings and  
13 the earnings that would have been realized at the Company’s authorized ROE, a difference  
14 that is far greater than the Company’s modest \$37.3 million interim rate increase request.

15 **Q. Mr. Gorman also argues that you should take into account the reduction**  
16 **in the Company’s common equity ratio since the last case. Do you agree?**

17 A. No. The Company’s parent corporation recently issued new common stock  
18 and made a substantial equity contribution to the Company using proceeds from that stock  
19 issuance. Insofar as the Company’s capital structure is one of the items that will be adjusted  
20 in the true-up phase of this case, it is anticipated that the Company’s capital structure at the  
21 time of the true-up will be close to the capital structure in the last case. Thus Mr. Gorman’s  
22 claim that the Company’s cost of equity has declined is incorrect. Consequently, the  
23 adjustment argued for by Mr. Gorman is inappropriate.

1           **Q.     Mr. Gorman identified adjustments that go one direction – that would**  
2 **increase earned returns if taken into account. Are there any material adjustments that**  
3 **go the other way and that would decrease earned returns if taken into account in the**  
4 **twelve months ended September 2009?**

5           A.     Yes, there are several examples of items that go the other way that are not  
6 mentioned by Mr. Gorman and that resulted in higher earned ROEs than would have  
7 otherwise occurred. For example, in April 2008 O&M expenses were reduced by \$12.6  
8 million to reflect an estimated amount for the Accounting Authority Order issued by the  
9 Commission for a 2007 ice storm. Also, in December 2008, O&M expenses were reduced  
10 by \$26.0 million to reflect O&M expenses being moved to a regulatory asset for amortization  
11 over a period of time pursuant to the Commission’s order in Case No. ER-2008-0318.  
12 Another such item is the December 2008 reduction in O&M expenses by \$12.2 million to  
13 reflect the Commission’s resolution in Case No. ER-2008-0318 of the Midwest ISO revenue  
14 sufficiency guarantee issue. The above-discussed reductions to O&M expenses, which total  
15 more than \$50 million annually (approximately 100 basis points) resulted in higher actual  
16 earned returns on equity than would have existed had they been taken in account. The point  
17 is that it is common to have various adjustments and non-recurring items that can either  
18 increase or decrease the actual earned rate of return and that if items like those identified by  
19 Mr. Gorman that tend to increase earned returns are to be taken into account, items like these  
20 that go the other way must also taken into account.

21           **Q.     Do all of these items need to be taken into account?**

22           A.     No. AmerenUE is experiencing an extended period where there exists a large  
23 and systemic shortfall between its earned returns and its authorized returns. Adjusting for

1 isolated items that may increase or decrease the earned returns over a short period of time  
2 does not change this basic fact -- that AmerenUE has consistently been unable to earn  
3 anywhere near its authorized return. The Company's interim rate request would implement  
4 interim rates that are subject to refund, meaning that when all relevant factors are taken into  
5 account (including the kinds of items identified by Mr. Gorman and items that go the other  
6 way as I address above), customers will ultimately be charged appropriate rates.

7 **Q. So I take it that you disagree with Mr. Gorman's contention that "all**  
8 **other aspects of [AmerenUE's] overall cost of service" must be considered before**  
9 **setting interim rates?**

10 A. Yes, I do disagree. If all aspects of the cost of service had to be taken into  
11 account, the Commission would never be able to set interim rates without completing a full  
12 rate case. In this case, where AmerenUE is consistently unable to earn anywhere near its  
13 authorized return due to regulatory lag, and where final rates are likely to be in excess of the  
14 interim rates requested, and where customers are fully protected because the interim rate  
15 increase is fully refundable with interest, it is perfectly appropriate for the Commission to  
16 allow an interim rate increase to cover the cost of plant already in service. As noted, if after  
17 considering all other factors the Commission determines that this interim rate increase is not  
18 warranted, it can simply provide refunds to the customers with interest.

19 **Q Does this conclude your rebuttal testimony on interim rates?**

20 A. Yes, it does.





AmerenUE  
Earned Regulatory Return on Equity  
Missouri Retail Electric  
October 2008 Through September 2009

Month	Year	Mo. Electric Rate Base	Mo. Electric Operating Income	Return on Rate Base	Return on Equity	Allowed ROE	Variation
October	2008	6,002,477,409	378,454,012	6.30%	7.08%	10.20%	-3.12%
November		6,118,937,710	356,182,643	5.82%	6.15%	10.20%	-4.05%
December		6,158,150,109	383,946,700	6.23%	6.94%	10.20%	-3.26%
January	2009	6,169,143,105	382,758,987	6.20%	6.88%	10.20%	-3.32%
February		6,224,863,979	361,752,402	5.81%	6.13%	10.20%	-4.07%
March (1)		6,019,494,000	353,605,000	5.87%	6.02%	10.76%	-4.74%
April		6,019,642,000	336,030,000	5.58%	5.46%	10.76%	-5.30%
May		6,037,599,000	341,673,000	5.66%	5.61%	10.76%	-5.15%
June		6,038,441,000	352,331,000	5.83%	5.95%	10.76%	-4.81%
July		6,083,856,000	342,577,000	5.63%	5.56%	10.76%	-5.20%
August		6,091,596,000	354,246,000	5.82%	5.91%	10.76%	-4.85%
September		5,940,022,000	353,804,000	5.96%	6.18%	10.76%	-4.58%
Average					<u>6.16%</u>		<u>-4.37%</u>

Capitalization Per Order

	ER-2007-0002		ER-2008-0318	
	Percent	Weighted Cost	Percent	Weighted Cost
Equity	52.224%	5.330%	52.010%	5.596%
Preferred Stock	2.017%	0.110%	1.740%	0.090%
Long-Term Debt	44.964%	2.460%	45.530%	2.627%
Short-Term Debt	0.795%	0.040%	0.720%	0.024%
Total	<u>100.000%</u>	<u>7.940%</u>	<u>100.000%</u>	<u>8.337%</u>
Total Excluding Equity		2.610%		2.741%

Notes:

The Rate Base and Operating Income are per the filed Monthly MPSC Surveillance Reports.

The Regulatory Return On Equity is calculated using the capitalization and weighted cost from MPSC Case No. ER-2007-0002 through February 2009 and the capitalization and weighted cost from MPSC Case No. ER-2008-0213 starting in March 2009.

(1) The March 2009 Surveillance Report is the new Quarterly Surveillance Report filed since the Company's FAC became effective on March 1, 2009. The Total is now only Total Electric.

AmerenUE  
Missouri Retail Electric Earned Regulatory Return on Equity  
Adjusted For Taum Sauk, Rate Case Disallowances, Normada, Annualized Rate Increase and Jan 2009 Ice Storm  
October 2008 Through September 2009

Month	Year	Mo. Electric Rate Base	Mo. Electric Operating Income	Return on Rate Base	Return on Equity	Allowed ROE	Variation
October	2008	6,002,477,409	409,849,264	6.83%	8.08%	10.20%	-2.12%
November		6,118,937,710	393,429,517	6.43%	7.31%	10.20%	-2.89%
December		6,158,150,109	428,146,285	6.95%	8.32%	10.20%	-1.88%
January	2009	6,169,143,105	439,561,345	7.13%	8.65%	10.20%	-1.55%
February		6,224,863,979	425,959,480	6.84%	8.11%	10.20%	-2.09%
March	(1)	6,019,494,000	425,927,820	7.08%	8.33%	10.76%	-2.43%
April		6,019,642,000	374,499,854	6.22%	6.69%	10.76%	-4.07%
May		6,037,599,000	383,367,337	6.35%	6.94%	10.76%	-3.82%
June		6,038,441,000	396,928,852	6.57%	7.37%	10.76%	-3.39%
July		6,083,856,000	391,105,160	6.43%	7.09%	10.76%	-3.67%
August		6,091,596,000	406,592,177	6.67%	7.56%	10.76%	-3.20%
September		5,940,022,000	409,734,984	6.90%	7.99%	10.76%	-2.77%
Average					<u>7.70%</u>		<u>-2.82%</u>

Capitalization Per Order

	ER-2007-0002		ER-2008-0318	
	Percent	Weighted Cost	Percent	Weighted Cost
Equity	52.224%	5.330%	52.010%	5.596%
Preferred Stock	2.017%	0.110%	1.740%	0.090%
Long-Term Debt	44.964%	2.460%	45.530%	2.627%
Short-Term Debt	0.795%	0.040%	0.720%	0.024%
Total	<u>100.000%</u>	<u>7.940%</u>	<u>100.000%</u>	<u>8.337%</u>
Total Excluding Equity		2.610%		2.741%

Notes:

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