Exhibit No.: _____
Issue(s): Alternative Regulation Plan Pre-Conditions/
Staff Cost of Service Study/
Company Cost of Service Study/
Missouri Generation Needs/
Union Electric Generation Needs
Witness: Ryan Kind
Type of Exhibit: Cross-Surrebuttal
Sponsoring Party: Public Counsel
Case No.: EC-2002-1
Date Testimony Prepared: June 24, 2002

CROSS-SURREBUTTAL TESTIMONY

OF

RYAN KIND

Submitted on Behalf of
the Office of the Public Counsel

UNION ELECTRIC COMPANY

NP

Case No. EC-2002-1

June 24, 2002

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

STAFF OF THE MISSOURI PUBLIC SERVICE COMMISSION, Complainant,	)	
vs.	)	Case No. EC-2002-1
UNION ELECTRIC COMPANY, d/b/a AmerenUE, Respondent.	)	

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 cross-surrebuttal testimony consisting of pages 1 through 16 and Schedules RK-1 through RK-14.

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 24th day of June 2002.

KATHLEEN HARRISON
Notary Public - State of Missouri
County of Cole
My Commission Expires Jan. 31, 2006

Kathleen Harrison
Notary Public

My commission expires January 31, 2006.

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CROSS-SURREBUTTAL TESTIMONY

OF

RYAN KIND

UNION ELECTRIC COMPANY D/B/A AMERENUE

CASE NO. EC-2002-1

Q. ARE YOU THE SAME RYAN KIND THAT SUBMITTED REBUTTAL TESTIMONY IN THIS CASE?

A. Yes, I am.

I. SUMMARY

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. My testimony will address the following topics:

- Recommendations regarding some of the outstanding issues that Public Counsel believes must be resolved before any Alternative Regulation Plan can be considered for Union Electric (UE or the Company).

- Rebuttal of several of the arguments that UE presented in its rebuttal testimony filing regarding the Staff's cost of service study that was presented in the Staff's direct testimony.

- Rebuttal of two aspects (SO2 emission allowance transaction revenues and the amortization of MISO exit fees) of the cost of service study that UE presented in its rebuttal testimony.

- Rebuttal of UE's assertions that generation additions in Missouri may be so inadequate that Missouri is in danger of embarking on the energy crisis path on which California is travelling.

- Rebuttal of UE's assertions that the Company needs to invest nearly $2 billion in generation infrastructure investments over the next few years to ensure adequate supplies of energy for its customers.

Further detail on the topics discussed in my testimony and the organization of their presentation can be found in the Table of Contents.

Q. ONE OF THE PREVALENT THEMES IN UE'S TESTIMONY IS THAT IT SHOULD RECEIVE FAVORABLE RATEMAKING TREATMENT (INCLUDING APPROVAL OF ITS PROPOSED ALTERNATIVE REGULATORY PLAN) TO ENSURE THAT IT IS ABLE TO MAKE NEEDED INFRASTRUCTURE INVESTEMENTS IN THE AREAS OF GENERATION AND TRANSMISSION. IT APPEARS THAT, FROM UE'S PERSPECTIVE, FAVORABLE RATEMAKING TREATMENT MIGHT IMPLY NOT FULLY RE-BASING UE'S RATES BASED ON COSTS AT THIS TIME IN ORDER TO ENSURE THAT THE UTILITY HAS THE FUNDS AVAILABLE TO MAKE INVESTMENTS IN GENERATION AND TRANSMISSION. WOULD RATEPAYERS HAVE ANY ASSURANCE THAT THEY WOULD BENEFIT FROM ANY NEW INVESTMENTS IN GENERATION AND TRANSMISSION FOR THE LIFE OF THE ASSETS?

A. Certainly not. UE and its parent company, Ameren, have consistently pursued initiatives at the federal and state levels that would facilitate the transfer of generation and transmission investments to UE's unregulated affiliates. UE sponsored Missouri legislation for two years in a row that would have removed this Commission's jurisdiction over the transfer of transmission assets to non-regulated affiliates. In the 2001 legislative session, UE was the primary sponsor of the Genco bill which would have facilitated the transfer of generation assets to an unregulated affiliate. Ameren's latest

initiative in this area is to propose the formation of a transco named the Grid America Three that, according to a letter filed at FERC on June 20, 2002, includes terms of an agreement between National Grid and three transmission owners (including Ameren) that "provides a mechanism for the Grid America Three to divest their transmission assets to Grid America."

Q. DOES IT MAKE ANY SENSE FOR RATEPAYERS TO BE SADDLED WITH RATES IN EXCESS OF COSTS IN ORDER TO ENCOURAGE THE INVESTMENT IN FACILLITIES THAT MAY SOON BE TRANSFERRED AWAY FROM THE REGULATED UTLITY?

A. Absolutely not. Such an approach to setting rates may just result in ratepayers providing the investment funds for assets that end up providing benefits solely to utility shareholders.

II. Issues Requiring Resolution Before Any Alternative Regulation Plan is Considered for UE

Q. DID UE PROPOSE A NEW ALTERNATIVE REGULATION PLAN IN ITS REBUTTAL TESTIMONY?

A. Yes. Schedule 1 of UE witness Baxter's testimony contains an Alternative Regulation Plan (ARP) that the Company is urging the Commission to adopt in this case. Public Counsel does not believe that it would be lawful for the Commission to adopt this particular ARP proposal, as will be explained by OPC's legal counsel. Furthermore, Public Counsel believes that certain preconditions would need to be satisfied before it would be just and reasonable for the Commission to adopt an ARP. One of the most important preconditions is the re-basing of UE's rates based on its cost of service. OPC's Chief Accountant, Russ Trippensee, is submitting prepared cross-surrebuttal testimony

which explains these preconditions along with other recommendations that the Commission should consider prior to adopting an ARP.

Q. PLEASE SUMMARIZE THE ISSUES THAT MUST BE RESOLVED BEFORE THE COMMISSION CONSIDERS ANY ALTERATIVE REGULATION PROPOSAL FOR UE WHICH YOU ARE ADDRESSING.

A. Some of the issues that must be resolved before the Commission considers any UE alternative regulation proposal, including the UE proposal filed in this case, include the following:

1) Unresolved allegations of earnings manipulation and misrepresentations contained in the earnings report that UE filed for the third sharing period of the second UE Experimental Alternative Regulation Plan (EARP II).

2) Unresolved allegations of affiliate abuse reflected in the earnings report that UE filed for the third sharing period of the second Experimental Alternative Regulation Plan.

3) Having appropriate affiliate transaction guidelines and reporting requirements in place to help ensure that the outcomes of a new ARP are not harmful to consumers.

4) Having appropriate SO2 emission allowance trading guidelines and reporting requirements in place to help ensure that the outcomes of a new ARP are not harmful to consumers.

Q. CAN ALL OF THE ABOVE ISSUES BE RESOLVED PRIOR TO THE COMMISSION'S DECISION IN THIS CASE?

A. That seems highly unlikely, given that: (1) the procedural schedule ordered by the Commission for the case (consolidated Case Nos. EM-96-149, EC-2002-1025, and EC-2002-1059) where the first two issues listed above would need to be resolved includes holding a hearing nearly three months after the hearing will be completed in this case, (2) UE has been granted a stay from the Commission's Affiliate Transactions Rule while that rule is under appeal, and (3) UE has not proposed any affiliate guidelines and reporting requirements that it would be subject to during the term of its proposed ARP.

A. Unresolved Earnings Manipulation Allegations in Case No. EM-96-149

Q. PLEASE SUMMARIZE THE FIRST ISSUE LISTED ABOVE THAT MUST BE RESOLVED BEFORE THE COMMISSION CONSIDERS ANY ALTERATIVE REGULATION PROPOSAL FOR UE.

A. Both the Commission Staff (Staff) and Public Counsel have filed complaints (Case Nos. EC-2002-1025 and EC-2002-1059 respectively) related to the third sharing period of the second EARP. These complaints contain significant allegations of earnings manipulation, misrepresentation of earnings, and affiliate abuse related to the manner in which UE created its third sharing period earnings report and the manner in which the company carried out its operations during the last sharing period of the second EARP. These complaints and the accompanying direct testimony of several witnesses were filed in mid-April and early May of this year, and the Commission has not yet resolved the allegations in the complaints one way or another. Public Counsel strongly believes that these allegations should be fully resolved before the Commission acts on any proposals to place UE under another alternative regulation plan.

Q. PLEASE DESCRIBE SOME OF THE MORE SERIOUS ALLEGATIONS CONTAINED IN THE COMPAINTS AND ACCOMPANYING TESTIMONY FILED BY THE STAFF AND OPC

REGARDING UE'S ACTIVITIES AND REPORTING OF EARNINGS DURING THE THIRD AND MOST RECENT SHARING PERIOD OF THE SECOND EARP.

A. While other witnesses presented testimony that supported the complaints filed by Staff and OPC, I will just briefly describe the allegations and evidence contained in my testimony which provides part of the support for Public Counsel's complaint in Case No. EC-2002-1059. In that case, I alleged that UE purposefully manipulated its earnings related to SO2 emission allowance transactions under the EARP II. This manipulation caused the unadjusted historical data about revenues related to SO2 allowance transactions during the third sharing period to be entirely different than the revenue data would have been absent the perverse incentives of the sharing plan. If not corrected, ratepayers will be deprived of the full amount of sharing credits that are due to them.

Ameren's internal documents show that Ameren: (1) gave extensive consideration to the ratemaking implications of making SO2 allowance sales and other transactions during the final two years of the EARP (the second of which is the test year ordered by the Commission in this case) and (2) changed the structure and timing of UE's SO2 transactions during the last year of the EARP in response to Ameren's ratemaking considerations.

Additional analysis of the earnings manipulation related to UE's emission allowance transactions, and the evidence supporting that analysis can be found in the direct testimony that I filed in Case No. EC-2002-1059 and in the rebuttal testimony that I filed in this case.

B. Unresolved Affiliate Abuse Allegations in Case No. EM-96-149

Q. PLEASE SUMMARIZE THE SECOND ISSUE LISTED ABOVE THAT MUST BE RESOLVED BEFORE THE COMMISSION CONSIDERS ANY ALTERATIVE REGULATION PROPOSAL FOR UE.

A. My testimony in Case No. EC-2002-1059 also contained allegations of affiliate abuse in activities that took place during the last sharing period of the second EARP. This affiliate abuse also involved SO2 emission allowance transactions and had a large impact on the earnings report filed by UE for the third sharing period. Ameren's structuring of SO2 transactions to manipulate earnings included a transaction between UE and one of its non-regulated affiliates, in which UE transferred emission allowance credits to the non-regulated affiliate, Ameren Energy Generating Company (AEG), through a swap transaction instead of a sale, for the express purpose of: (1) lowering the amount of sharing credits paid to ratepayers and (2) enhancing the non-regulated earnings Ameren and two of its non-regulated affiliates, Ameren Energy Fuels and Services (AFS) and AEG.

Additional analysis of the affiliate abuse and resultant earnings manipulation related to UE's emission allowance transactions, and the evidence supporting that analysis can be found in the direct testimony that I filed in Case No. EC-2002-1059 and in the rebuttal testimony that I filed in this case.

C. Lack of Affiliate Transaction Guidelines

Q. PLEASE SUMMARIZE THE THIRD ISSUE LISTED ABOVE THAT MUST BE RESOLVED BEFORE THE COMMISSION CONSIDERS ANY ALTERATIVE REGULATION PROPOSAL FOR UE.

A. The third issue that I raised in this area, the need to have appropriate affiliate transaction guidelines and reporting requirements in place to help insure that the outcomes of a new ARP are not harmful to consumers, is very important for the following reasons:

1) UE is the largest electric utility in the state of Missouri and its corporate holding company structure is highly complex, but it is the only Missouri electric utility that is not subject to the Commission's affiliate transactions rule. Because of this, affiliate transaction guidance and reporting requirements are sorely needed, especially if UE is placed under an alternative regulation plan.

2) UE's senior officers are also the senior officers of Ameren and it is illogical to expect UE senior officers to pursue the interests of UE when this conflicts with the strategic and financial interest of Ameren and its affiliates. (See pages 15 through 17 of my rebuttal testimony in this case.)

3) The alternative regulation plan proposed by UE contains an earnings sharing mechanism. Alternative regulation plans with sharing mechanisms create incentives for utilities to shift costs from non-regulated affiliates to the regulated affiliate in order to minimize the earnings that must be shared with rate payers. Without adequate affiliate transaction guidelines and reporting requirements it is difficult to discourage such cost-shifting or detect if it has occurred.

4) My rebuttal testimony in this case and my direct testimony in Case No. EC-2002-1059 documented affiliate abuse related to SO2 emission allowance transactions.

5) Adequate affiliate guidelines and reporting requirements may have deterred UE from engaging in the affiliate abuse related to SO2 allowance transactions that is documented in my rebuttal testimony in this case and my direct testimony in Case No. EC-2002-1059.

6) Since UE is not required to report the significant transactions that it entered into with its affiliates, the affiliate abuse related to SO2 allowance transactions that was discovered was a "lucky find" given the enormous complexity and magnitude of transactions taking place between UE and its many affiliates. Ratepayers should not be relying on luck to get reasonable and fair outcomes from an incentive plan.

7) New information that OPC recently received in a supplement to a data request that was due two months ago indicates that **_____

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Q. HAVE YOU SEEN ANY STATEMENTS MADE BY AMEREN'S WITNESSES THAT ACKNOWLEDGE THE COST SHIFTING INCENTIVE INHERENT IN EARNINGS SHARING PLANS LIKE THE ONE PROPOSED BY UE IN THIS CASE?

A. Yes. While UE's testimony is silent on this topic, Dr. Mark Lowry, one of UE's outside experts that the Company hired to support its Alternative Regulation Proposal, gave a presentation several months ago on "U.S. Experience with Performance-Based Ratemaking" (see Schedule RK-1 for excerpts from this presentation) where he made the point that a Performance Based Ratemaking plan that utilizes an incentive-sharing mechanism has a disadvantage because this type of alternative regulation "raises cost shifting concerns."

Q. PLEASE DESCRIBE THE NEW INFORMATION THAT YOU REFERENCED IN ITEM NUMBER SEVEN ABOVE.

A. In UE's second supplemental response to OPC Data Request (DR) No. 5031 (see Schedule RK-1), UE provided a copy of the EBIT (earnings before interest and taxes)

Reports for Ameren Energy Fuels & Services Company (AFS). This report shows that **

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**Q. PLEASE IDENTIFY THE RELEVANT PORTIONS OF SCHEDULE RK-2 WHICH ILLUSTATE HOW ** _____

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A. ** _____

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[redacted]

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Q. DO YOU BELIEVE THAT AMEREN MAY HAVE BEHAVED DIFFERENTLY AND NOT ENGAGED IN THE AFFILIATE ABUSE DESCRIBED ABOVE IF UE WAS SUBJECT TO THE AFFILIATE RULES OR SOME OTHER SIMILAR AFFILIATE GUIDELINES AND AFFILIATE TRANSACTION REPORTING REQUIREMENTS?

A. Yes. I believe that if UE was subject to the affiliate rules or some other similar affiliate guidelines and affiliate transaction reporting requirements, then Ameren would have been much more likely to avoid engaging in this abusive SO2 emission allowance swap transaction. Its hard to imagine that the parent of a regulated utility would choose to engage in such flagrant affiliate abuse if it believed there was a significant chance that the abuse would be discovered and brought to the attention of the agency that regulates it. While such transactions obviously have a great amount of appeal when they can bring millions of dollars to the company's bottom line, Ameren's management would probably have decided that the increased earnings were not worth the risk of devastating harm to the company's relationship with regulators if effective affiliate guidelines and reporting requirements were in place.

Q. DID YOUR TESTIMONY REBUTTAL TESTIMONY IN THIS CASE AND YOUR DIRECT TESTIMONY IN CASE NO. EC-2002-1059 CONTAIN EVIDENCE THAT THE SENIOR OFFICERS OF BOTH AMEREN AND UE APPROVED THE SWAP TRANSACTION BETWEEN UE AND ITS NON-REGULATED AFFILIATE AEG?

A. Yes. The handwritten note on page 2 of Schedule RK-2 in my rebuttal testimony clearly shows that three senior officers, Gary Rainwater, Warner Baxter, and Mike Mueller approved moving forward with a swap instead of a sale for the emission allowance transaction between UE and AEG. Of course, Gary Rainwater (UE's President and Chief Operating Officer) is the key corporate officer who would be expected to look out for the interests of UE. Mr. Rainwater is also the President of Ameren Energy Fuels and

Services, the Ameren subsidiary that facilitated the transaction between UE and AEG and ** reported **_____ **

D. Inadequate SO2 Emission Allowance Transaction Guidelines

Q. PLEASE SUMMARIZE THE FOURTH ISSUE LISTED ABOVE THAT MUST BE RESOLVED BEFORE THE COMMISSION CONSIDERS ANY ALTERATIVE REGULATION PROPOSAL FOR UE.

A. The fourth issue that I raised in this area, the need to have appropriate SO2 emission allowance trading guidelines and reporting requirements in place to help insure that the outcomes of a new ARP are not harmful to consumers, is very important for the following reasons:

1) My rebuttal testimony in this case and my direct testimony in Case No. EC-2002-1059 documented affiliate abuse related to SO2 allowance transactions and contained analysis and evidence demonstrating that perverse incentives exist for UE to manipulate its earnings by structuring its SO2 allowance transactions in a manner that reduced benefits to ratepayers from an alternative regulation plan. The evidence in these testimonies also demonstrated that UE reacted to these perverse incentives to manipulate its earnings by altering the type and magnitude of SO2 allowance transactions so that customer benefits from the alternative regulation plan would be reduced.

2) The guidelines for SO2 emission allowance trading and reporting requirements that are currently in place have been shown to be inadequate to protect consumers, especially when UE is operating under an alternative regulation plan.

Q. DOES YOUR REBUTTAL TESTIMONY IN THIS CASE CONTAIN GUIDELINES FOR UE'S SO2 ALLOWANCE TRANSACTIONS THAT WOULD HELP ENSURE THAT CONSUMERS RECEIVE REASONABLE AND FAIR OUTCOMES FROM ANY FUTURE UE ALTERNATIVE REGULATION PLAN?

A. Yes. Pages four through six of my rebuttal testimony present Public Counsel's recommendations in this area and the rationale for these recommendations. I should note that OPC believes these recommendations are necessary to protect consumers regardless of whether UE is subject to traditional cost of service regulation or some form of alternative regulation.

III. Rebuttal of Selected UE Arguments Opposing the Commission Staff's Cost of Service Study

Q. PLEASE SUMMARIZE THE ISSUES RAISED BY UE REGARDING THE COMMISSION STAFF'S (STAFF'S) COST OF SERVICE STUDY THAT YOU WILL BE ADDRESSING IN THIS TESTIMONY.

A. The issues raised by UE witnesses in Rebuttal testimony regarding the Commission Staff's (Staff's) cost of service study that I will be addressing in this testimony include the following:

1) UE assertions that based on legal and policy arguments, the Staff must strictly adhere to the JDA for determining UE's cost of service. (Baxter - page 56 line 1, C. Nelson, page 15, line 19)

2) UE's denial that Dr. Proctor is accurate in alleging that the failure to build new capacity at UE while substantial new capacity was being built at non-regulated Ameren affiliates constitutes affiliate abuse. (Voytas – page37, line 18)

3) UE assertions that Dr. Proctor's recommendations regarding the JDA and costs associated with the AEM contract create "regulatory uncertainty." (C. Nelson – page 3, line 11, Voytas – page 21, line 14)

4) UE assertions that the Staff's proposed rate of return would have a disastrous impact on energy infrastructure investment in the state of Missouri. (Rainwater - page 5, line 18) and UE assertions that the Staff's proposed revenue reductions would have an adverse impact on energy infrastructure investment in the state of Missouri. (Rainwater Executive Summary – page 2, Baxter - page 31, line 22)

5) Staff should not have disallowed Midwest ISO exit fee costs of $12.5 million. (Baxter - page 54, line 14)

A. Should The JDA Be Used For Ratemaking Purposes In Missouri?

Q. DO YOU HAVE ANY RESPONSE TO UE'S ARGUMENTS: (1) THAT THE COMMISSION IS REQUIRED TO USE THE JOINT DISPATCH AGREEMENT (JDA) FOR RATEMAKING PURPOSES AND THAT (2) THE COMPANY IS SURPRISED THAT THE STAFF WOULD TAKE THE POSITION THAT THE COMMISSION IS NOT REQUIRED TO USE THE JDA FOR RATEMAKING PURPOSES.

A. I find it hard to understand that UE is so surprised that a party would take the position that the Commission is not required to use the JDA for ratemaking purposes. My difficulty in understanding the "surprise" reaction in UE's testimony arises from the following factors:

1) I have made my views known in resource planning meetings with UE personnel, including Rick Voytas, that I do not believe that the JDA restricts the Missouri Commission with regard to ratemaking treatment.

2) There have never been any determinations by the Commission that it would use the JDA for determining rates in Missouri. To the contrary, the Commission has approved Stipulation and Agreements that specifically state that the items in the stipulation will not be binding on the Commission for ratemaking treatment. (See OPC witness Dittmer's Surrebuttal testimony for further elaboration on this point.)

3) ** _____ _____ **

Q. PLEASE DISCUSS THE THIRD FACTOR THAT YOU CITED ABOVE.

A. ** _____ _____ _____ _____ _____ **

Q. PLEASE DISCUSS THE AMEREN DOCUMENTS REGARDING THE JDA THAT THE COMPANY ASSERTS ARE SUBJECT TO ATTORNEY/CLIENT PRIVELEDGE.

A. Public Counsel Data Request (DR) Nos. 554 and 555 requested documents related to the JDA. OPC DR No. 554 requested:

> a copy of all documents that have been created by or for Ameren or its affiliates within the last three years that contain descriptions or analysis of, or references to, possible plans for **taking actions that would decrease the JDA (joint dispatch agreement) allocation of opportunity or off-system sales revenues to UE ratepayers** (i.e. credited to UE's cost of service.) Such actions could include, but would not be limited to: 1) replacing uncommitted generation construction plans with tolling or other supplies, 2) shifting load from UE to CIPS or AER or other Ameren affiliates, 3) revising risk policies to increase the quantity of capacity that can be sold in long term contracts, and 4) retaining margins from short term sales from incremental capacity not required by CIPS and UE.

Public Counsel DR No. 555 requested:

> a copy of all documents that have been created by or for Ameren or its affiliates within the last three years that contain descriptions or analysis of, or references to, possible **plans for modifying or eliminating the JDA** (joint dispatch agreement) ratepayer payment terms (e.g. the terms under which a portion of Ameren Energy trading margins are credited to UE's cost of service.)

The company did provide or reference a few documents that were responsive to these DRs but it refused to provide most of the responsive documents claiming that they were subject to attorney/client privilege because an attorney had either authored the documents or was on the distribution list for the documents. There were a total of 18 documents created by Ameren which the company refused to provide that pertained to the subjects of either: (1) taking actions that would decrease the JDA (joint dispatch agreement) allocation of opportunity or off-system sales revenues to UE ratepayers or (2) possible plans for modifying or eliminating the JDA (joint dispatch agreement) ratepayer payment terms (e.g. the terms under which a portion of Ameren Energy trading margins are credited to UE's cost of service). Many of these documents were written around the time that UE entered into a summer 2001 purchase power agreement with its non-regulated power marketing affiliate, Ameren Energy Marketing (AEM). That contract and its "must take" energy provisions is one of the hotly contested issues in this case.

Q. PLEASE DISCUSS THE AMEREN DOCUMENTS THAT YOU HAVE SEEN WHICH INDICATE AMEREN HAS **_____ **

A. UE's response to OPC DR No. 535 included a copy of **_____

[redacted]

[redacted]

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Q. YOU STATED THAT THERE WERE 18 DOCUMENTS REGARDING THE JDA THAT UE REFUSED TO PROVIDE BECAUSE IT ASSERTED THEY WERE COVERED BY ATTORNEY/CLIENT PRIVELEDGE. HOW DO THE DATES THAT THOSE 18 DOCUMENTS THAT WERE CREATED BY AMEREN AFFILIATES COMPARE TO THE AUGUST 25, 2000

DATE OF THE AEM BUSINESS PLAN THAT CONTAINED THE MANY REFERENCES TO THE JDA THAT YOU DESCRIBED ABOVE?

A. Only one of the attorney/client privilege documents was created more than six months prior to the AER business plan. All of the other documents were either created after the plan or within two months of the date that the plan was completed. Eight of the attorney/client documents were created within 2 months of the date on which the plan was completed.

Q. ARE THEY ANY OTHER DOCUMENTS CREATED BY AMEREN REGARDING THE JDA THAT YOU WOULD LIKE TO BRING TO THE COMMISSION'S ATTENTION?

A. Yes. RK-4 is a copy of **_____ _____** The Ameren Senior Team is composed of Paul Agathen, Warner Baxter, Dan Cole, Gary Rainwater, Garry Randolph, and Tom Voss. Page 11 of Schedule RK-4 shows that **_____

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Q. DOES ** _____

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PROVIDE FURTHER REASON FOR THE COMMISSION TO DETERMINE THAT THE JDA SHOULD NOT BE THE ULTIMATE GUIDELINE FOR AN EQUITABLE DISTRIBUTION OF

JOINT DISPATCH BENEFITS BETWEEN UE AND AMEREN'S UNREGULATED GENERATION AFFILIATE, AEG?

A. Yes, it certainly does.

B. Affiliate Abuse and Construction of Regulated Vs. Non-Regulated Generation

Q. WHAT IS YOUR RESPONSE TO THE STATEMENT OF UE WITNESS VOYTAS ON PAGE 37 OF HIS TESTIMONY THAT "I STRONGLY DISAGREE WITH DR. PROCTOR'S IMPLICATION THAT THERE HAS BEEN SOME AFFILIATE ABUSE ON THE GROUNDS THAT AEG HAS BUILT GENERATON AND UE HAS NOT?"

A. I don't believe that Mr. Voytas has any grounds for denying Dr. Proctor's allegation of affiliate abuse in this area. All one needs to do is look at the facts to see that Ameren has chosen to make its generation investments in AEG rather than UE. I can understand why Mr. Voytas would want to attempt to deny this allegation because it undermines many of UE's arguments about creating incentives to build generation in Missouri in order to achieve the reliability, price certainty, and economic benefits that UE asserts Missouri generation investments would bring. I am not sure what amount of favorable ratemaking treatment or other generation incentives would have been necessary in Missouri to overcome the strategic interest that Ameren had in emphasizing the building or acquisition of non-regulated generation over the last few years.

At line 8 on page 38 of his testimony, Mr. Voytas states that both "UE and AEM plan to maintain an **____** planning reserve margin rather than the higher level that Dr. Proctor sets forth in his testimony. Mr. Voytas fails to point out that the UE reserve margin of **__** has been achieved in the last two years by purchasing capacity from AEM. **_____

_____** Information on the Illinois

Commerce Commission's (ICC) web site indicates that for the summer of 2002, AEM will have a reserve margin of 29% while UE will have a reserve margin of 17%. The ICC web site notes that this data is based "in large measure" on information provided by the utilities. Presumably, AEM's reserve margin for 2002 would have been even higher if it had not made a significant capacity sale to UE.

Q. MR. VOYTAS'S DENIAL OF THE AFFILIATE ABUSE ALLEGATIONS ABOUT EMPHASIZING CONSTRUCTION OF UNREGULATED GENERATION SEEMS TO IMPLY THAT AMEREN NEVER HAD A PLAN OF RAPIDLY EXPANDING THE GENERATING CAPACITY WITHIN THE GENCO (AEG) WHILE NEGLECTING INVESTMENTS IN GENERATION AT UE. DO YOU BELIEVE THIS IS TRUE?

A. No. I believe that Ameren's plans to emphasize construction of generation at the Genco go back several years. Just a little over a year ago, Ameren Services Senior Vice-President Paul Agathen stated in a guest editorial column in the Joplin Globe that "Missouri's state-regulated utilities have no plans to build new electric generating plants." While I doubt that Mr. Agathen could truly speak for the intentions of all the investor-owned utilities in Missouri, I do believe that he could speak for UE and Ameren.

The AEG page of the Ameren web site states that:

> The 2,900 megawatt capacity of the five existing AEG power plants, plus the company's new and planned combustion turbines, represent nearly 6,100 megawatts of net generating capacity for AmerenEnergy Generating Company. The power is marketed by a non-regulated affiliate, AmerenEnergy Marketing Company.

The above quote indicates that AEG planned to add 3,200 MW (6,100 – 2,900) of peaking capacity.

UE's response to OPC DR No. 553 contained documents that **_____

[redacted]

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Q. AMEREN MADE ITS BIG PUSH FOR GETTING ITS GENCO LEGISLATION PASSED DURING THE 2001 LEGISLATIVE SESSION. DO YOU BELIEVE IT GAVE UP ON THE IDEA AFTER THAT?

A. No. Ameren is probably just in a waiting mode, waiting to see what conditions are like once the California energy crisis and the Enron meltdown are further behind us.

C. UE Allegations That The Staff Is Creating Regulatory Uncertainty

Q. AT LINE 15 ON PAGE 21 OF HIS TESTIMONY, UE WITNESS VOYTAS REFERS TO THE REGULATORY UNCERTAINTY THAT THE COMPANY MUST FACE AS IT PLANS FOR FUTURE RESOURCES. HE SEEMS TO IMPLY THAT DR. PROCTOR IS INCREASING THE REGULATORY UNCERTAINTY IN THE ELECTRIC INDUSTRY IN MISSOURI. WHAT DO YOU THINK OF THIS COMMENT?

A. It seems mighty peculiar for the company that has been the biggest force behind trying to deregulate the Missouri electric industry to be pointing the finger at others and accusing them of creating regulatory uncertainty. Without Ameren's actions to try and deregulate the Missouri electric utility industry over the last few years, I believe that there would have been much less regulatory uncertainty in Missouri during that time.

D. UE's Assertion That The Staff Case Will Harm Infrastructure Investment

Q. HOW DO YOU RESPOND TO UE'S ASSERTIONS THAT THE STAFF'S RECOMMENDED RATE OF RETURN AND THE STAFF'S PROPOSED REVENUE ADJUSTMENTS WILL HAVE A STRONGLY ADVERSE IMPACT ON NEEDED INFRASTRUCTURE INVESTMENTS AT UE AND THROUGHOUT THE STATE OF MISSOURI?

A. I think that any impact the Staff's case may have on incentives for infrastructure investment in Missouri pales in comparison to the disincentives for infrastructure investment in Missouri that UE and its affiliates have imposed upon the state of Missouri. The ways that UE and its affiliates have contributed to disincentives for infrastructure investment in Missouri include:

- Ameren's strong support of deregulation and restructuring initiatives in Missouri over the last few years and the regulatory uncertainty that this support has caused.

- Ameren's creation of an unregulated genco and its emphasis on having this unregulated affiliate build generating plants in the state of Illinois while UE basically "sat on its hands."

- Ameren's decision to have UE rely on purchases of peaking capacity from its unregulated affiliate, AEM, instead of building capacity in Missouri to satisfy its load growth needs.

- UE's desire to be regulated under alternative regulation plans instead of traditional regulation. The alternative regulation plans have included sharing mechanisms that give UE a disincentive to make major capital investments since this would lower the amount of earnings that UE can retain during the term of the plan. Most of the Missouri utilities that are regulated under more traditional regulation have been adding generating capacity to meet their needs.

E. MISO Exit Fees

Q. PLEASE EXPAIN HOW THE STAFF TREATED THE MIDWEST INDEPENDENT SYSTEM OPERATOR (MISO) EXIT FEES INCURRED BY AMEREN ON BEHALF OF UE DURING THE TEST YEAR FOR THIS CASE.

A. The cost of service that the Staff calculated for UE did not include any of the cost that Ameren incurred to exit the MISO.

Q. DID UE'S REBUTTAL TESTIMONY IN THIS CASE ADDRESS THE STAFF'S TREATMENT OF MISO EXIT FEES IN THE STAFF COST OF SERVICE STUDY?

A. Yes. UE witness Baxter opposes the Staff's disallowance of MISO exit fees on page 54 of his testimony.

Q. DOES THE PUBLIC COUNSEL DISAGREE WITH UE'S POSITION THAT IT WAS IMPROPER TO DISALLOW ANY RECOVERY OF THE MISO EXIT FEES PAID BY UE IN THE SPRING OF 2001?

A. Yes. Public Counsel strongly disagrees with UE's position that it is improper to disallow MISO exit fees. We are frankly quite surprised that the Company would ask this Commission to recover these fees in rates when the fees were incurred without first seeking this Commission's necessary approval of UE's decision to exit the MISO. It is also puzzling that UE would wait to request this Commission's approval to withdraw from the MISO **after** it paid the exit fees, and then come to this Commission seeking to have these fees included in its cost of service at the same time that it is asking the Commission to delay its ruling in Case No. EO-2001-684on whether UE's request to leave the MISO should be granted.

Q. PLEASE SUMMARIZE WHY OPC BELIEVES THAT IT WOULD NOT BE APPROPRIATE TO INCLUDE ALL OR PART OF UE'S PORTION OF THE AMEREN MISO EXIT FEE AS AN EXPENSE IN THE CALCULATION OF UE'S COST OF SERVICE IN THIS CASE.

A. There are two principal reasons why Public Counsel believes that the MISO exit fees do not represent reasonable or prudent expenditures on behalf of the regulated operations of UE. First, UE failed to get the necessary Missouri PSC approvals for the action that the Company took (withdrawing from the MISO) that caused it to incur the MISO exit fees. Secondly, the decision that UE's parent company, Ameren, made to withdraw from the MISO was not done to further the ability of UE to provide safe and adequate utility service at just and reasonable rates. Instead, the decision to withdraw was based on considerations related to the non-regulated operations of Ameren (the holding company that owns UE) and the future unregulated opportunities of Ameren.

Q. WHEN DID AMEREN FIRST STATE PUBLICLY THAT IT INTENDED TO WITHDRAW FROM THE MISO?

A. Ameren issued a press release on November 9, 2000 where it "announced its intention to withdraw from the Midwest Independent System Operator (MISO) and to become a member of the Alliance Regional Transmission Organization (Alliance RTO), pending the necessary regulatory approvals."

Q. PLEASE SUMMARIZE THE KEY PARTS OF THE CHRONOLOGY OF AMEREN'S ATTEMPT TO WITHDRAW FROM THE MISO AND JOIN THE ALLIANCE RTO (ARTO).

A. The following chronology summarizes some of the key dates:

- February 21, 1997 – This Commission approved the merger of UE and CIPSCO Incorporated in Case No. EM-96-149 on the condition that UE "participate in a regional ISO [the predecessor of RTOs] that eliminates pancaked transmission rates and that is consistent with the ISO guidelines set out in FERC Order 888." (Order at page 16)

- May 13, 1999 – This Commission approved UE's application to participate in the MISO under conditions set forth in the Stipulation and Agreement in Case No. EO-98-413. One of the terms that UE agreed to in that stipulation was that "in the event that AmerenUE seeks to withdraw from its participation in the Midwest ISO pursuant to Article Five or Article Seven of the Midwest ISO Agreement, the Company shall file a Notice of Withdrawal with the Commission, and with any other applicable regulatory agency, and such Withdrawal shall become effective when the Commission, and such other agencies, approve or accept such Notice or have otherwise allowed it to become effective."

- November 9, 2000 – Ameren provided formal written notification to the MISO of the Company's intent to withdraw from the MISO.

- January 11, 2001 – Ameren signed an agreement to join the Alliance RTO.

- January 16, 2001 – Ameren filed an application with the Federal Energy Regulatory Commission (FERC) to withdraw from the MISO where it sought permission to withdraw immediately.

- May 8, 2001 – FERC approved a settlement agreement that provided FERC approval for Ameren to withdraw from the MISO and join the ARTO. Ameren still lacked the necessary Missouri PSC approval for the proposed withdrawal.

- May 15, 2001 – Ameren made an $18 million "exit fee" payment to the MISO ($12.5 million for UE and $5.5 million for CIPS).

- June 8, 2001 – UE filed at the Missouri PSC an "Application of Union Electric Company for an Order Authorizing it to Withdraw From the Midwest ISO to Participate in the Alliance RTO." This application initiated Case No. EO-2001-684.

- December 20, 2001 – FERC granted RTO status to the MISO.

- February 28, 2002 – UE filed its Motion for Continued Abeyance in Case No. EO-2001-684 requesting that the Commission continue to hold the proceeding in abeyance until May 1, 2002.

Q. THE CHRONOLOGY ABOVE INDICATES THAT UE HAS ALREADY PAID $12.5 MILLION TO WITHDRAW FROM THE MISO EVEN THOUGH THE MISSOURI COMMISSION HAS NEVER AUTHORIZED UE'S WITHDRAWAL FROM THE MISO. IS THAT CORRECT?

A. Yes. The relief that UE sought in Case No. EO-2001-684, that would have permitted its withdrawal, has never been granted.

Q. PLEASE CONTINUE WITH YOUR EXPLANATION OF WHY YOU BELIEVE IT WOULD NOT BE APPROPRIATE TO INCLUDE ANY PORTION OF THE MISO WITHDRAWAL FEES IN THE COST OF SERVICE THAT WILL BE USED TO CALCULATE THE RATES THAT RESULT FROM THIS CASE.

A. Ameren should never have signed any agreements (on behalf of UE) to withdraw from the MISO without the required authorization from this Commission. Of course, Ameren (on behalf of UE) went beyond just signing agreements to exit the MISO, it actually paid the MISO a substantial "exit fee" for a withdrawal that never received the necessary approvals from this Commission. It is now seeking to obtain ratepayer funds to pay for much of the unauthorized withdrawal fee payment by arguing that it was not appropriate for the Staff to disallow this expense.

Q. DOES AMEREN APPEAR TO UNDERSTAND THAT IT HAS NEVER RECEIVED THE NECESSARY APPROVAL FROM THE MISSOURI COMMISSION TO WITHDRAW FROM THE MISO?

A. Yes. In the Ameren 2001 report to shareholders that was released just a couple months ago, Ameren states on page 23 that "the Company's withdrawal from the Midwest ISO remains subject to MoPSC approval."

Q. PLEASE EXPLAIN THE COMMITMENT THAT UE MADE IN CASE NO. EO-98-413 TO SEEK MISSOURI PSC APPROVAL PRIOR TO WITHDRAWING FROM THE MISO.

A. As the above chronology indicates, this Commission issued an order in Case No. EM-96-149 on February 21, 1997 that approved the merger of UE and CIPSCO Incorporated on

the condition that UE "participate in a regional ISO [the predecessor of RTOs] that eliminates pancaked transmission rates and that is consistent with the ISO guidelines set out in FERC Order 888." As part of its compliance with this condition, UE filed, on March 30, 1998, an Application with the Commission in Case No. EO-98-413 for an order authorizing the Company to participate in the MISO. The parties in Case No. EO-98-413 entered into a Stipulation and Agreement that resolved all of the issues in the case. One of the provisions of that Stipulation and Agreement, which was signed by UE and later approved by the Commission, was that:

> In the event that AmerenUE seeks to withdraw from its participation in the Midwest ISO pursuant to Article Five or Article Seven of the Midwest ISO Agreement, the Company shall file a Notice of Withdrawal with the Commission, and with any other applicable regulatory agency, and such Withdrawal shall become effective when the Commission, and such other agencies, approve or accept such Notice or have otherwise allowed it to become effective. (Stipulation & Agreement, page 3, paragraph number 11)

Q. HAS UE SOUGHT AUTHORIZATION FROM THIS COMMISSION TO WITHDRAW FROM THE MISO?

A. Yes.

Q. DID UE SEEK TO OBTAIN THIS AUTHORIZATION PRIOR TO WITHDRAWING FROM THE MISO AND PAYING THE EXIT FEES ASSOCIATED WITH THAT WITHDRAWAL?

A. No. As the chronology that I listed earlier indicates, Ameren, acting as an agent for UE, notified the MISO of UE's withdrawal on November 9, 2000. Ameren made an $18 million dollar exit fee payment to the MISO on May 15, 2001. On June 8, 2001, several weeks after making this payment to the MISO, UE filed an application with this Commission where it sought approval to withdraw from the MISO.

Q. HAS THE COMMISSION ISSUED A REPORT AND ORDER IN CASE NO. EO-2001-684 WHERE UE SOUGHT COMMISSION AUTHORIZATION TO PERMIT ITS WITHDRAWAL FROM THE MISO?

A. No. The Commission held hearings in this case last October and the case has been fully briefed, but the Commission has not issued an order either denying or approving UE's application to withdraw from the MISO. UE has filed pleadings requesting the Commission to essentially place this case on hold and no Commission decision has been made as of the date this testimony was filed.

Q. PLEASE SUMMARIZE THE PROBLEM WITH UE SEEKING TO HAVE THE MISO EXIT FEES CONSIDERED IN THE CALCULATION OF ITS COST OF SERVICE EVEN THOUGH IT HAS NEVER RECEIVED THE NECESSARY APPROVAL FROM THIS COMMISSION TO WITHDRAW FROM PARTICIPATION IN THE MISO.

A. There is no basis for including an expense item for MISO exit fees in the calculation of cost of service. Including all or an amortized portion of this fee in UE's rates would reward the utility for taking actions which lacked the necessary prior authorization by this Commission. If UE's payment of MISO exit fees is included in the cost of service (revenue requirement) that the Commission uses to set rates in this case, then UE will have, in essence, been rewarded for violating the provisions of a Commission order.

Q. PLEASE PROVIDE AN UPDATE ON THE CURRENT STATUS OF THE MISO AND ITS SUITABILITY AS AN ISO/RTO THAT WOULD SATISFY THE TERMS OF THE COMMISSION'S DIRECTIVE IN CASE NO. EM-96-149 FOR UE TO "PARTICIPATE IN A REGIONAL ISO."

A. As I stated earlier, Ameren was initially ordered to "participate in a regional ISO [the predecessor of RTOs] that eliminates pancaked transmission rates and that is consistent

with the ISO guidelines set out in FERC Order 888." On September 16, 1998, the FERC issued an order conditionally approving the establishment of the MISO. In that order, the FERC concluded that the MISO would eliminate pancaked transmission rates (Docket Nos. ER98-1438-000 and EC98-24-000, page 33). The FERC also concluded in its order that the MISO was consistent with FERC's ISO principles set forth in Order 888, either as proposed by the MISO or as modified by the FERC (FERC Docket Nos. ER98-1438-000 and EC98-24-000, pages 19 - 60).

As the findings and conclusions in the FERC order described above indicate, the MISO was clearly on a path to satisfy this Commission's directives for UE to "participate in a regional ISO [the predecessor of RTOs] that eliminates pancaked transmission rates and that is consistent with the ISO guidelines set out in FERC Order 888." I have personally been an active participant in the development of the MISO as a member of its Stakeholder Advisory Committee and firmly believe that up until the point that Ameren announced its withdrawal from the MISO, the MISO was on a path to satisfy the Commission's conditions for ISO participation by UE that were set forth in its order in Case No. EM-96-149.

The FERC subsequently issued an order on December 19, 2001 that granted RTO status to the MISO. The proposed Alliance RTO was denied RTO status on that same date, and on April 24, 2002, the FERC issued an order reiterating the directives in its previous order for the Alliance participants to join either the MISO or another RTO.

Q. PLEASE TURN TO THE OTHER ISSUE THAT YOU RAISED ABOUT WHETHER UE'S EXPENDITURE OF FUNDS FOR MISO EXIT FEES WAS A PRUDENT OR REASONABLE EXPENDITURE FOR A REGULATED ELECTRIC UTILITY TO MAKE.

A. The other issue I raised was that Ameren's decision to withdraw from the MISO was not done to further the ability of UE to provide safe and adequate utility service at just and

reasonable rates. Instead, the decision to withdraw appears to have been based on considerations related to the non-regulated operations of Ameren and the future non-regulated opportunities of Ameren. In the testimony that follows, I will reference Attachments to my testimony in the MISO withdrawal case, Case No. EO-2001-684. Additional copies of these attachments are not included as attachments to this testimony, but can be found in my direct testimony which has been admitted into the record in Case No. EO-2001-684.

Q. WHAT WERE THESE OTHER CONSIDERATIONS RELATED TO THE NON-REGULATED OPERATIONS OF AMEREN AND THE FUTURE NON-REGULATED OPPORTUNITIES OF AMEREN THAT PLAYED A ROLE IN AMEREN'S DECISION TO LEAVE THE MISO AND JOIN THE ARTO?

A. The other considerations included:

1) The impact that Ameren's choice of an RTO would have on the future earnings prospects of Ameren's unregulated power marketing business and its unregulated generation assets.

2) The flexibility to divest its transmission assets at a later date to a Transco at market value.

3) The ability to maintain as much control as possible over transmission assets.

4) The governance of an RTO and the degree to which transmission owners can continue to exert influence over RTO policies (including transmission expansion plans) during and after the formation of the RTO.

Q. PLEASE EXPLAIN WHY YOU BELIEVE THE FIRST FACTOR LISTED ABOVE HAD AN IMPACT ON AMEREN'S DECISION TO LEAVE THE MISO AND JOIN THE ARTO.

A. There are several reasons why I believe that Ameren considered the impact that its choice of an RTO would have on the **future earnings prospects of its unregulated power marketing business and its unregulated generation assets**. First, it's simply common sense that Ameren would consider this factor as part of its fiduciary duty to attempt to provide future earnings growth for its shareholders. When UE merged with CIPS several years ago to form Ameren, UE acknowledged in its testimony that the increased number of transmission interconnects was expected to benefit the Company's power marketing operations. (See page 9 of Ameren CEO Charles Mueller's direct testimony in Case No. EM-96-149).

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Q. PLEASE EXPLAIN WHY YOU BELIEVE THE SECOND FACTOR LISTED ABOVE HAD AN IMPACT ON AMEREN'S DECISION TO LEAVE THE MISO AND JOIN THE ARTO.

A. There are several reasons why I believe that Ameren considered the impact that its choice of an RTO would have on the Company's **flexibility to divest its transmission assets at a later date to a transco at market value**. First of all, the restructuring legislation that Ameren has promoted in last two legislative sessions has provided for divesting of transmission assets with no oversight from the Commission. If this provision was important enough for Ameren to have included consistently in the legislation that it supported, then it is safe to assume that Ameren desires the flexibility to divest its transmission assets without having any conditions imposed upon it that would interfere with gaining the maximum financial benefits for shareholders. These types of provisions do not just appear in proposed legislation by accident.

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Q. PLEASE EXPLAIN WHY YOU BELIEVE THE THIRD FACTOR LISTED ABOVE HAD AN IMPACT ON AMEREN'S DECISION TO LEAVE THE MISO AND JOIN THE ARTO.

A. There are several reasons why I believe that Ameren considered the impact that its choice of an RTO would have on t**he ability to maintain as much control as possible over transmission assets.** First, it's just common sense that utilities would like to continue performing the functions that they currently perform unless this somehow threatens their future earnings.

Second, one would expect that a vertically integrated utility would want to maintain control of "bottleneck facilities" when this control may allow them to enhance the future financial outcomes from their affiliated unregulated businesses (e.g. power marketing and non-regulated generation) that rely on access to these "bottleneck facilities" to engage in competitive unregulated business opportunities.

Third, on page 4 of Attachment RK-2 to my Direct Testimony in Case No. EO-2001-684, Ameren's senior management informs its Board of Directors that its investigation of alternatives to the MISO was prompted in part by Ameren's objective to "minimize the loss of control over assets."

Q. PLEASE EXPLAIN WHY YOU BELIEVE THE FOURTH FACTOR LISTED ABOVE HAD AN IMPACT ON AMEREN'S DECISION TO LEAVE THE MISO AND JOIN THE ARTO.

A. There are several reasons why I believe that Ameren considered the impact that its choice of an RTO would have on **the degree to which the RTOs governance would allow transmission owners can continue to exert influence over RTO policies** (including

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transmission expansion plans) during and after the formation of the RTO. First, my experience as an active participant during the formal and information ISO/RTO formation processes at the MISO from 1996 through the end of the year 2000 allowed me to interact with a large number of transmission owners and gain insights into their perspectives on ISOs/RTOs. During 1999 and 2000, when I served on the MISO Advisory Committee, I attended meetings almost every month at the MISO in Indianapolis, Indiana. Over these two years, I saw the MISO transformed from an organization that was largely run and staffed by transmission owner personnel to one where the MISO board and management cooperated with the entire spectrum of stakeholders to set up an entity that could enhance reliability and facilitate the development of competitive wholesale markets across a broad area in the Midwest. It became clear to me from these experiences that a large number of transmission owners were highly uncomfortable with the concept of losing control over their transmission assets to an organization that was independent from the control of any one stakeholder group, including transmission owners.

During the spring and summer of 2000, some curious things began to happen as this process moved along. Certain transmission owners became visibly upset with the MISO management and with some of the stakeholder groups. Some transmission owners began to circulate rumors that the MISO was being mismanaged and was setting an enormous and costly infrastructure to perform its operations. The MISO stakeholder advisory committee responded to some of these allegations and even set up a Financial Audit Committee composed of stakeholders, including myself, to investigate the allegations of mismanagement. The MISO's management cooperated with this committee and no mismanagement or exorbitant expenditures were discovered as part of this process. In many cases, the MISO management was simply following through on purchasing and implementing systems that had been specified and selected by the transmission owners

themselves during the time that transmission owner personnel served as a substitute for having a MISO staff.

It became increasing apparent to me that these efforts to discredit the MISO and sow discontent among the stakeholders were largely due to the success that the MISO was starting to achieve in implementing the objectives that the FERC outlined in Orders 888 and 2000 for transmission organizations that were independent from any single stakeholder group so they would be in a position to operate the transmission grid in a manner that provided true open access and leveled the playing field between marketers and generators that were affiliated with transmission owners and those that were not.

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Q. PLEASE SUMMARIZE YOUR TESTIMONY REGARDING UE OPPOSITION TO STAFF'S POSTION THAT MISO EXIT FEES SHOULD BE DISALLOWED.

A. The testimony above explained and provided evidence supporting Public Counsel's position is this case that it would be inappropriate to include any amount of UE's MISO exit fees in the rates that result from this case. UE incurred these fees without the necessary Commission approval to withdraw from the MISO and the fees are not a prudent expense that should be borne by ratepayers since Ameren's decision to withdraw from the MISO was driven by the financial and strategic concerns of UE's parent corporation, Ameren. The MISO exit fees did not need to be incurred by UE to perform

its regulated utility obligations and will not enhance UE's ability to perform its regulated utility obligations.

In a later section of this testimony, I address UE's proposal to amortize the MISO exit fee over four years and reflect this amortization in its cost of service and the rates that the Commission sets in this case. All of the above testimony that supports the Staff's position of disallowing all of the MISO exit fee is fully applicable to OPC's opposition to UE's proposal to amortize the MISO exit fee over four years.

IV. Rebuttal of Selected UE Arguments Supporting the Company's Cost of Service Study

Q. PLEASE SUMMARIZE THE ISSUES RAISED BY UE REGARDING THE COMPANY'S COST OF SERVICE STUDY THAT YOU WILL BE ADDRESSING IN THIS TESTIMONY.

A. The issues raised by UE witnesses in Rebuttal testimony regarding the Company's cost of service study that I will be addressing in this testimony include the following:

1) SO2 emission allowance revenues in the UE Cost of Service Study.

2) UE's position that it should be allowed a 4 year amortization of the UE MISO exit fee. (Whitely – page 15, line 5 and page 16, line 16).

A. SO2 Emission Allowance Transaction Revenues

Q. DO THE STAFF AND THE COMPANY BOTH HAVE THE SAME LEVEL OF SO2 TRANSACTIONS REVENUES IN THEIR RESPECTIVE COST OF SERVICE STUDIES?

A. No. In my rebuttal testimony, I observed that the Staff did not make any adjustment to the $945,859 in emission revenues that UE booked during the test year (the twelve months ending 6/30/01), $912,216 of which was allocated to UE's Missouri jurisdiction.

I also stated in my rebuttal testimony that it was "my understanding that the Staff made no adjustments to UE's figures for SO2 allowance revenues and that the Staff did not perform an extensive evaluation of UE's SO2 emission allowance transactions during the test year."

UE's cost of service, on the other hand, includes what the Company believes is the Company's Missouri jurisdictional portion of the SO2 allowance revenues that it booked for the test year, updated through 9/30/01. The amount of SO2 allowance revenues that UE included in its cost of service study, $9,452,974, appears on page 185 of UE witness Weiss' work papers. The Missouri jurisdictional portion of UE's SO2 allowance revenues in Gary Weiss' work papers was $8,540,295.

Q. YOUR REBUTTAL TESTIMONY IN THIS CASE MADE A PRIMARY AND AN ALTERNATIVE RECOMMENDATION REGARDING THE AMOUNT OF SO2 ALLOWANCE REVENUES THAT SHOULD BE REFLECTED IN THE STAFF'S COST OF SERVICE STUDY. PLEASE REPEAT THOSE RECOMMENDATIONS.

A. In my rebuttal testimony, my primary recommendation was that the Staff's cost of service study be adjusted in the following manner:

> A $23,412,500 adjustment to the SO2 emission allowance revenues that should be reflected in the total UE (Missouri and Illinois) cost of service that the Commission uses as the basis for determining the revenue requirement used to set rates in this case.

I also made the following alternative recommendation:

> If the Commission decides that the SO2 allowance revenue data from the test year is so tainted due to UE's efforts to manipulate its earnings associated with SO2 allowance transactions during the last year of the EARP and that, even with the adjustments to the test year allowance transaction revenue data that I have proposed, that data from the test year should not be used as an input in the determination of normalized test year revenues, then I have an alternative recommendation. My alternative recommendation is to use only the information available on SO2 sales revenues occurring during the time period from July 1, 2001

through April 30, 2002. This alternative would result in an adjustment of $19,129,500 in "total UE" SO2 allowance revenues based on the data that is available at this time. The $19,129,500 figure should be updated to reflect allowance sales revenues from the months of March and April 2002, when that data becomes available.

Q. IN YOUR ALTERNATIVE RECOMMENDATION, YOU STATE THAT "THE $19,129,500 FIGURE SHOULD BE UPDATED TO REFLECT ALLOWANCE SALES REVENUES FROM THE MONTHS OF MARCH AND APRIL 2002, WHEN THAT DATA BECOMES AVAILABLE." HAS DATA FOR THE MONTHS OF MARCH AND APRIL BECOME AVAILABLE YET?

A. No. I still had not been able to obtain this data in the week preceding the Monday when this testimony is due. However, in the "Response of UE to Public Counsel's Second Motion to Compel" (filed with the Commission on June 17, 2002) the Company states that it "will therefore drop its objection to this data request and will provide the data as soon as possible." The data request to which UE referred in the above quote is OPC DR No. 5048, which requested documents that summarize all SO2 emission allowance transactions taking place since January 1, 2000.

Q. DO YOU BELIEVE THAT THE TOTAL UE (MISSOURI AND ILLINOIS) COST OF SERVICE THAT THE COMMISSION USES AS THE BASIS FOR DETERMINING THE REVENUE REQUIREMENT USED TO SET RATES IN THIS CASE SHOULD, AT A MINIMUM, INCLUDE THE $9,452,974 FIGURE FOR SO2 EMISSION ALLOWANCE REVENUES THAT APPEARS ON PAGE 185 OF UE WITNESS WEISS' WORKPAPERS?

A. Yes. The $9,452,974 figure for SO2 emission allowance revenues that appears on page 185 of UE witness Weiss' work papers is the minimum amount that should be reflected in the total UE (Missouri and Illinois) cost of service that the Commission uses as the basis for determining the revenue requirement used to set rates in this case. The Commission should use this figure (or this figure plus the adjustment described below) if

it determines that the SO2 emission allowance revenue adjustments recommended in my rebuttal testimony are not appropriate.

Q. DID YOU BELIEVE UE'S $9,452,974 FIGURE FOR SO2 EMISSION ALLOWANCE REVENUES REFLECTS ALL OF THE MAJOR SO2 EMISSION ALLOWANCE TRANSACTION REVENUES THAT UE RECIEVED DURING THE TEST YEAR AS UPDATED FOR CHANGES IN THE UPDATE PERIOD?

A. No. The Ameren SO2 emission allowance records that I audited for the test year and update period indicate that UE sold ** _____ ** worth of emission allowances on ** _____ ** (see Schedule RK-7) that are not reflected in the $9,452,974 figure for SO2 emission allowance revenues that appears on page 185 of UE witness Weiss' work papers. Therefore, if the Commission believes the adjustments recommended in my rebuttal testimony are not appropriate, then I believe that it would be appropriate to include $9,452,974 figure for SO2 emission allowance revenues in UE witness Weiss' work papers plus ** _____ _____ _____ ** The sum of $9,452,974 plus ** _____ **

Q. HOW DO YOU KNOW THAT THE ** _____ ** REFERENCED ABOVE WAS NOT INCLUDED IN THE $9,452,974 FIGURE FOR SO2 EMISSION ALLOWANCE REVENUES IN UE WITNESS WEISS' WORKPAPERS?

A. UE's response to OPC DR No. 5027 showed the SO2 emission allowance transactions and associated revenues from the update period that were reflected in UE's SO2 $9,452,974 allowance revenues figure for the update period. The revenues from the ** _____ ** allowance sale that is shown in the UE transaction record

in Schedule RK-7 did not appear in UE's response to OPC DR No. 5027 so this sale is not reflected UE's $9,452,974 SO2 allowance revenues figure for the update period.

B. MISO Exit Fee Four Year Amortization

Q. PLEASE EXPLAIN HOW UE TREATED THE MIDWEST INDEPENDENT SYSTEM OPERATOR (MISO) EXIT FEES IN ITS COST OF SERVICE.

A. On page 15 of his testimony, UE witness Whiteley states that UE proposes to recover the $12,502,800 MISO exit fee over a four year period. He asserts that consumers will see long-term benefits from this withdrawal and argues that is appropriate for consumers to pay for this fee over a four year time period as consumers are reaping the "significant benefits" of this withdrawal over the same time period.

Q. WILL CONSUMERS EVER EXPERIENCE THE "SIGNIFICANT BENEFITS" THAT MR. WHITELY ASSETS WILL RESULT FROM AMEREN'S WITHDRAWAL FROM THE MISO?

A. No. Ameren announced on May 28, 2002 that is was re-joining the MISO, therefore the "significant benefits" that Mr. Whitely asserted would materialize will not be seen and the MISO exit fee will be repaid to Ameren. Ameren's agreement with the MISO to re-join the MISO was formalized in the documents that Ameren submitted to the FERC in Docket Nos. EL-02-65, et al. on June 20, 2002. Schedule RK-8 contains the cover letter submitted with Ameren's June 20 filing at the FERC.

Q. BY WHAT AMOUNT WOULD UE'S COST OF SERVICE INCREASE IF THE COMMISSION AGREED WITH AMEREN'S PROPOSAL TO ALLOW THE COMPANY TO AMORTIZE THIS EXPENSE OVER 4 YEARS?

A. Page 422 of UE witness Weiss's cost of service work papers indicate that the 4 year amortization of MISO exit fees would result in an amortization expense of $3,125,700

per year. In addition to the annual amortization expense, approval of UE's proposal would put the remaining unamortized portion of $9,377,100 in UE's rate base, and UE's rates would also include the return on this rate base item. The total effect of the amortization expense and the return on rate base of the unamortized portion would increase UE's rates by over $4 million per year.

Q. HOW DOES MR. WHITELY ATTEMPT TO JUSTIFY THE INCLUSION OF THE AMORTIZED MISO EXIT FEE IN UE'S RATES, IN THE EVENT THAT UE REJOINED THE MISO AND REICEVED A REFUND OF THE MISO EXIT FEES FROM THE MISO?

A. Mr. Whiteley attempts to justify inclusion of the MISO exit fees in rates even if they are refunded by UE re-joining the MISO, by arguing that in the event that UE rejoins the MISO, then it will incur "RTO administrative expenses that have not been reflected in the test year cost of service."

Q. DOES MR. WHITELY PROVIDE AN ESTIMATE OF THESE "RTO ADMINISTRATIVE EXPENSES" THAT ARE NOT CURRENTLY IN TEST YEAR EXPENSES?

A. Mr. Whiteley estimates that these expenses will be up to $6 million dollars a year but the Company did not provide any work papers supporting this $6 million dollar estimate.

Q. HAVE YOU SENT A SPECIFIC DATA REQUEST TO THE COMPANY REQUESTING THE WORKPAPERS THAT SUPPORT THIS $6 MILLION ESTIMATE?

A. Yes. OPC DR No. 5130 requested this information and was due on June 13, 2002 but this DR had not been responded to as of June 21, 2002.

Q. MR. WHITELEY ATTEMPTED TO SHOW THAT THE COMPANY WOULD INCUR SOME ADDITONAL EXPENSES IF IT RE-JOINED THE MISO. DID MR. WHITELEY POINT OUT OR

PROVIDE ESTIMATES OF ANY OF THE EXPENSES THAT AMEREN AND ITS REGULATED UTILITIY SUBSIDIARIES WOULD AVOID INCURRING IF IT RE-JOINED THE MISO.

A. No, he did not.

Q. ARE YOU AWARE OF ANY EXPENSES THAT AMEREN EXPECTS TO AVOID INCURRING IF IT RE-JOINED THE MISO?

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**Q. PLEASE DESCRIBE AND EXPLAIN THE ** _____
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Q. DO YOU KNOW WHY MR. WHITELEY'S TESTIMONY ADDRESSED ANTICIPATED INCREASES IN EXPENSES ASSOCIATED WITH JOINING THE MISO BUT IGNORED ANTICIPATED REDUCTIONS IN EXPENSES ASSOCIATED WITH JOINING THE MISO?

A. No. Any opinion that I might have about why Mr. Whiteley did not address anticipated reductions in expenses associated with joining the MISO would be pure speculation.

Q. PLEASE SUMMARIZE YOUR REBUTTAL OF MR. WHITELEY'S ASSERTIONS THAT IF AMEREN RE-JOINS THE MISO, UE'S EXPENSES CAN BE EXPECTED TO INCREASE (DUE TO THE RTO ADMINISTRATIVE EXPENSES THAT HAVE NOT BEEN REFLECTED IN THE TEST YEAR COST OF SERVICE) BY AN AMOUNT THAT WOULD EXCEED THE COSTS ASSOCIATED WITH A FOUR YEAR AMORTIZATION OF UE'S MISO WITHDRAWAL FEES.

A. The Company has never provided any work papers supporting Mr. Whiteley's estimate of $6 million in RTO administrative expenses. **

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V. Rebuttal of UE's Assertions That Generation Additions in Missouri May Be Inadequate

Q. DID ANY OF AMERENUE'S WITNESSES RAISE ISSUES REGARDING THE CONSTRUCTION OF SUFFICENT GENERATION CAPACITY IN THE STATE OF MISSOURI TO COVER THE FUTURE ELECTRICIY NEEDS FOR THE STATE OF MISSOURI?

A. Yes. UE witness Randolph begins discussing Missouri's generation capacity situation at line 15 on page 6 of his rebuttal testimony. This discussion continues through page 13 of his testimony. Mr. Randolph cites information that I compiled for a presentation as part of the basis for his conclusions, but I strongly disagree with his conclusions.

Q. AT LINE 11 ON PAGE 7 OF MR. RANDOLPH'S TESTIMONY, HE TALKS ABOUT THE RESERVE MARGIN ASSOCIATED WITH THE "OWNED CAPACITY" OF MISSOURI INVESTOR OWNED UTILITIES (IOUS).

DO REGIONAL RELIABILITY ORGANIZATIONS SUCH AS THE SOUTHWEST POWER POOL (SPP) OR THE MID-AMERICA INTERCONNECTED NETWORK (MAIN) LIMIT THE CAPACITY THAT IS ACCREDITED FOR SATISFYING UTILITY MEMBER RESERVE REQUIREMENTS TO UTILITY "OWNED CAPACITY?"

A. No.

Q. HAS UE RELIED ON NON-UTILITY OWNED CAPACITY THAT WAS UNDER FIRM LONG-TERM CONTRACT TO HELP SATISFY ITS RESERVE REQUIREMENT OBLIGATIONS AT MAIN DURING THE SUMMERS OF 2001 AND 2002?

A. Yes.

Q. HAS THE RELIANCE ON THIS NON-UTILITY OWNED CAPACITY THAT WAS UNDER FIRM LONG-TERM CONTRACT HAD ANY ADVERSE RELIABILITY IMPACTS ON THE SERVICE THAT UE PROVIDES TO ITS MISSOURI ELECTRIC CUSTOMERS?

A. I am not aware of any such impacts.

Q. GIVEN MR. RANDOLPH'S CRITICISM OF RELIANCE ON NON-UTILITY OWNED GENERATION CAPACITY FOR ENSURING RELIABLE POWER SUPPLIES IN THE STATE OF MISSOURI, IS IT CORRECT TO ASSUME THAT UE PROPOSES TO RELY SOLEY ON UE OWNED GENERATION CAPACITY TO SERVE ITS FUTURE CAPACITY NEEDS?

A. No. According to the testimony of UE witness Craig Nelson:

> AmerenUE 's strategy calls for additional generation capability achieved through a combination of power purchases, generation additions, and upgrades to existing generation facilities. (Rebuttal testimony, page 4, line 1)
>
> ...
>
> However, **preliminary [UE study] results show the appropriate generation mix to include ** ____ ** MWs of capacity purchases** along with the purchase and/or construction of a combination of combined cycle and simple cycle combustion turbine generating facilities. (Emphasis added) (Rebuttal testimony, page 23, line 5)

UE witness Whiteley also comments on UE's consideration of relying extensively on purchased power, instead of UE built generation capacity, to satisfy future UE capacity needs where he states on page 10 of his testimony at line 21 that:

> Furthermore, if the forecasted need to import 1,200 MW of capacity by 2006 comes to fruition, AmerenUE may need to incur firm point-to-point reservation charges of approximately $14 million per year to preserve the ability to import this capacity and energy from other control areas.

Q. ARE MR. RANDOLPH'S STATEMENTS ABOUT THE DANGERS OF RELYING ON NON-UTILITY SUPPLIERS OF GENERATION CONSISTENT WITH THE PLANS THAT UE HAS

UNDER CONSIDERATION TO RELY EXTENSIVELY ON NON-UTILITY SUPPLIERS OF GENERATION FOR FUTURE CAPACITY NEEDS?

A. No. The company appears to be citing the purported dangers of relying on non-utility suppliers of generation to support its arguments for favorable ratemaking treatment of generation infrastructure investments (including the proposed ARP), while at the same time giving serious consideration to putting itself in a situation where its reliance on non-utility suppliers of generation will increase dramatically. UE (witness Whiteley) then uses UE's projections of extensive reliance on non-utility suppliers of generation to argue for favorable ratemaking treatment of the transmission investments that would facilitate increased reliance on non-utility suppliers of generation.

Q. UE HAS ASSERTED THAT THE TWO PREVIOUS EXPERIMENTAL ALTERNATIVE REGULATION PLANS HAVE PROVIDED BENEFITS TO THE COMPANY AND ITS CUSTOMERS. HOWEVER, IF THERE ARE ADVERSE CONSEQUENCES ASSOCIATED WITH UE'S INCREASING RELIANCE ON PURCHASED POWER TO SATISFY ITS RESERVE REQUIREMENT OBLIGATIONS, COULD THESE CONSEQUENCES BE PARTLY ATTRIBUTED TO THE EXPERIMENTAL ALTERNATIVE REGULATION PLANS THAT UE OPERATED UNDER FOR THE LAST SIX YEARS?

A. Yes, if there are adverse consequences associated with UE's increasing reliance on purchased power to satisfy its reserve requirement obligations, then these consequences are probably due to several factors, including the previous experimental alternative regulation plans. Other likely factors include: (1) the Ameren planning process which is driven by considerations of the overall financial interests of the Ameren holding company that owns and controls UE rather than the interests of UE and (2) Ameren's hopes that its efforts to persuade the Missouri Legislature to deregulate the Missouri electric utility industry would be successful.

Q. GIVEN THAT UE'S PREVIOUS ALTERNATIVE REGULATION PLANS MAY HAVE BEEN ONE OF THE FACTORS THAT CONTRIBUTED TO THE CURRENT GENERATING CAPACITY SHORTFALLS THAT EXIST AT UE, DOES THE ALTERNATIVE REGULATION PLAN PROPOSED BY UE IN THIS CASE ADDRESS THIS DEFECT?

A. No. While UE's new ARP proposal mentions "commitments" to build new generation capacity, the plan does not contain any provisions that could enforce this commitment that would punish UE for not living up to its commitments. UE has consistently argued in restructuring debates at the Missouri Legislature that this Commission has no authority to force the Company to build new capacity, so it would likely resist Commission efforts to enforce this "commitment." If UE had proposed some downward adjustment of the earnings to be shared with shareholders if certain generation capacity investment targets are not reached, then the plan would have included a meaningful provision to address this deficiency. However, as I note in other parts of this testimony, I believe UE's description of its generation capacity shortfall may be greatly overstated.

Q. PLEASE RETURN TO PAGE 7 OF MR. RANDOLPH'S TESTIMONY WHERE HE CITES THE LOW RESERVE MARGIN ASSOCIATED WITH THE "OWNED CAPACITY" OF MISSOURI IOUS. WHOSE INFORMATION DOES MR. RANDOLPH RELY ON WHEN HE MAKES CALCULATIONS OF LOW RESERVE MARGIN ASSOCIATED WITH THE "OWNED CAPACITY" OF MISSOURI IOUS?

A. He relies on information that I compiled for a presentation that I gave to the Governor's Missouri Energy Policy Task Force (Governor's Energy Task Force) over a year ago.

Q. HAVE YOU COMPILED ADDITONAL INFORMATION ON GENERATION CAPACITY ADDITIONS IN MISSOURI SUBSEQUENT TO THE PRESENTATION THAT YOU MADE TO THE GOVERNORS MISSOURI ENERGY POLICY TASK FORCE?

A. Yes. I presented an update on Missouri's Electric Supply Situation to the Missouri Legislature's Joint Interim Committee on Telecommunications and Energy (Joint Interim Committee) on October 22, 2001. In that presentation, I updated the information that I had used in my presentation to the Governor's Energy Task Force. Representatives of Ameren attended the meeting of the Joint Interim Committee where this updated information was provided and I recall giving them a copy of my presentation. The portion of that presentation which pertains to Missouri's Electric Supply Situation is attached as Schedule RK-12. I will discuss this presentation in more detail below.

Q. AT LINE 2 ON PAGE 8 OF HIS TESTIMONY, MR. RANDOLPH STATES THAT "MISSOURI MAY BE ON A PATH TO BECOMING A NET IMPORTER, RATHER THAN A NET EXPORTER OF ELECTRICITY." DOES MR. RANDOLPH CITE ANY EVIDENCE TO SUPPORT THIS STATEMENT?

A. No.

Q. ARE YOU AWARE OF ANY FACTS THAT WOULD LEAD SOMEONE TO CONCLUDE THAT "MISSOURI MAY BE ON A PATH TO BECOMING A NET IMPORTER, RATHER THAN A NET EXPORTER OF ELECTRICITY?"

A. No.

Q. ARE YOU AWARE OF ANY STATEMENTS MADE RECENTLY BY OTHER AMEREN OFFICIALS REGARDING THE POSSIBLITY OF MISSOURI BECOMING A NET IMPORTER STATE?

A. Yes. In a May 24, 2001 presentation to the Governor's Energy Policy Task Force, UE witness Craig Nelson stated that "Missouri may be on a path to becoming a net importer, rather than a net exporter of electricity." At that time, UE was citing its Genco legislative

proposal as a solution to this purported problem. Now, of course, UE is trying to persuade this Commission that the Company's proposed alternative regulation plan is a solution to this purported problem.

In an August 6, 2001 letter to the Chairman of the Governor's Energy Policy Task Force, Mr. Nelson stated that "Missouri may well be on its way to becoming a net importer of power in the not too distant future." In that same letter, Mr. Nelson was promoting "incentives for investor owned utilities to build generation in Missouri." Mr. Nelson concluded his August 6 letter by stating:

> In conclusion, Missouri should enact legislation that would encourage investor owned utilities to build in Missouri. The incentives mentioned in my June 7th letter are worth consideration. Much of the legislation recently enacted by neighboring states would work well in Missouri. The approach taken by Iowa is especially worthy of consideration.

The quote that appears in Mr. Randolph's testimony, "Missouri may be on a path to becoming a net importer, rather than exporter, of electricity," appeared once again in the presentation that UE witness Craig Nelson gave to a Missouri House Interim Committee on October 11, 2001 where this statement was utilized as part of the rationale by Ameren to "strongly urge consideration of a mechanism to provide both regulatory certainty and a reasonable rate of return on investment, in addition to the creation of adequate investment incentives to attract new generation to Missouri." The generation investment incentives that Mr. Nelson advocated legislative action on in his remarks to the House Interim Committee included: (1) Kansas, Iowa, Illinois, and Wisconsin legislative approaches to incenting generation construction, (2) the reduction of property taxes on new investment, (3) streamlining the permit process, and (4) establishing rate making principles regarding cost recovery and return on investment before construction begins.

Q. HOW DOES MR. RANDOLPH COMPARE MISSOURI'S ENERGY SITUATION TO CALIFORNIA'S ENERGY SITUATION?

A. At line 2 on page 8 of his testimony, Mr. Randolph states that:

> Missouri may be on a path to becoming a net importer, rather than a net exporter, of electricity. That's the same path followed by California for many years. No one wants to see Missouri end up where California is today.

Q. IS MISSOURI ANYWHERE CLOSE TO FOLLOWING THE PATH THAT CALIFORNIA IS ON FOR PROVIDING ELECTRIC SERVICE?

A. No. This is truly a situation of "comparing apples to oranges." First of all, unlike California, Missouri has chosen to continue to require investor owned utilities regulated by the PSC to have an obligation to provide adequate supplies of generation. Second, not only is California a net importer of electricity, California imports massive amounts of electricity to satisfy its energy needs. According to the State Electricity Profile for California that appears on the Energy Information Administration (EIA) web site, California consumed 260,935,606 megawatt hours of electricity in 1999, while it produced only 191,584,475 megawatt hours of electricity in 1999.

The EIA data shows that California relied on imports for more than 25% of its energy needs in 1999. Given Missouri's current status as a net exporter, Missouri would need to stop building plants for an extended period of time before it got anywhere close to relying on imports to satisfy over 25% of its energy needs. In the testimony that follows, I show that new generation continues to be built in Missouri at a rate that greatly exceeds the state's growth in demand.

Q. APPROXIMATELY HOW MUCH GENERATING CAPACITY NEEDS TO BE ADDED IN MISSOURI TO KEEP PACE WITH LOAD GROWTH IN MISSOURI?

A. As second slide on the first page of Schedule RK-12 indicates, Missouri needs to add about 450 MW of capacity every year (based on 2001 capacity requirements) to keep pace with the growth of peak electric consumption in Missouri.

Q. HOW HAS THE GENERATING CAPACITY ADDED IN MISSOURI OVER THE LAST FEW YEARS COMPARED TO THE AVERAGE LOAD PEAK LOAD GROWTH OF 450 MW PER YEAR?

A. The generating capacity added since 1999 is compared to expected annual peak load growth in the following table:

Comparison of Missouri Load Growth and Capacity Additions

Year	Load Growth (MW)	Capacity Additions (MW)	Additions in Excess of Growth	Cumulative Additions in Excess of Growth
1999	450	** **	** **	** **
2000	450	** **	** **	** **
2001	450	2,306	1,856	** **
2002	450	** **	** **	** **

The data on capacity additions that appear in the third column is from UE's response to OPC DR No. 5142. This is the data that Ameren currently uses in the resource planning and modeling process that UE witness Craig Nelson describes on pages 21 through 23 of his testimony. I have designated all of the capacity addition data from UE's response to OPC DR No. 5142 as confidential, except for the 2001 data that was included in Schedule 2 of UE witness Randolph's testimony. As the data in the table illustrates, additions to generation capacity in Missouri have ** ** exceeded the average rate of peak load growth in Missouri over the last few years.

Q. AT LINE 18 ON PAGE 12 OF HIS TESTIMONY, UE WITNESS RANDOLPH STATES THAT "WITHOUT A CHANGE TO THE STATUS QUO, MISSOURI IS FACING...GENERATION CAPACITY ADDITIONS THAT LAG NEIGHOBORING STATES. IS THIS STATEMENT CONSISTENT WITH THE INFORMATION THAT AMEREN HAS COMPILED REGARDING CURRENT AND FUTURE CAPACITY ADDITIONS IN NEIGHBORING STATES?

A. **____** Information that UE provided in response to OPC DR No. 5142 regarding generating capacity additions (see Schedule RK-13) shows that Ameren expects to see at least **_____**MW in generating capacity additions between 1999 and 2007 while the neighboring states of Kansas, Nebraska, and Iowa are expected to have capacity additions of **_____** MW respectively over the same time period. All of these capacity addition figures can be found in Schedule RK-13, **_____ _____**

VI. Rebuttal of UE's Assertions That It Needs to Invest $1.74 billion in Generation Projects By 2006

Q. AT LINE 9 ON PAGE 16 OF HIS TESTIMONY, UE WITNESS RANDOLPH STATES THAT "AMERENUE INTENDS TO INVEST $1.74 BILLION IN GENERATION INFRASTRUCTURE IMPROVEMENTS AND ADDITIONS FROM 2002 THROUGH 2006." WOULD AN INVESTMENT OF THIS MAGNITUDE BE REQUIRED IF AMEREN DECIDES TO PROCEED WITH THE AMERENUE ILLINOIS TRANSFER THAT HAS BEEN UNDER CONSIDERATION IN THE LAST TWO YEARS?

A. No. The $1.74 billion figure appears to assume that 700 MW of additional new generating capacity (not including upgrades) will be needed to meet increases in load growth over the next few years. However, if UE were to transfer its Illinois UE service territory to AmerenCIPS, a large amount of capacity **_____** will become available to meet the capacity needs of UE's Missouri customers without needing to

invest $1.74 billion over the next few years. **_____

_____

_____

_____**

Q. AT LINE 5 ON PAGE 21 OF HIS TESTIMONY, UE WITNESS CRAIG NELSON STATES THAT "AMERENUE FORCASTS SHORTFALLS STARTING AT **___ MWS IN 2003 AND REACHING **____** MWS IN 2011. DOES THE SHORTFALL OF **____** MWS IN 2011 ASSUME THAT **_____**

_____

_____**

A. **_____

_____

_____**

Q. ISN'T AMEREN THE MAJORITY OWNER OF EEI AFTER ACQUIRING AN ADDITIONAL OWNERSHIP SHARE WHEN IT ACQUIRED CIPS?

A. Yes. Ameren now owns 60% of EEI when the 40% ownership share of UE is combined with the 20% share that Ameren acquired in the CIPS acquisition.

Q. PLEASE DESCRIBE THE GENERATING FACILLITIES OWNED BY EEI.

A. At the time of the UE/CIPS merger, EEI owned a 1,000 MW coal-fired plant (the Joppa Plant) in southern Illinois along with a substation and some transmission facilities. According to the Ameren web site, EEI also operates at least 5 CTs in addition to the Joppa plant.

Q. DID AMEREN CONSIDER THE ACQUISITION OF A MAJORITY OWNERSHIP IN EEI TO BE ONE OF THE SIGNIFICANT BENEFITS RESULTING FROM THE CIPS ACQUISITION?

A. Yes. Most definitely. The following exchange regarding this topic took place between Ted Payne (an investment analyst) and Chuck Mueller (UE's CEO) during the August 14, 1995 conference call that UE and CIPSCO held with investment analysts:

> Ted Payne: A question concerning your investment in EEI. Will there be any change in the combined ownership?
>
> Chuck Mueller: Presently, Union Electric owns 40% of Electric Energy, Inc. and CIPSCO owns 20%; Kentucky Utilities, 20%; and Illinois Power, 20%. The combined entity, obviously, will own 60%. We presently plan to continue EEI in its present course. We are supplying power to the uranium enrichment facility, and we consider them a very good customer and we plan to keep them as such. Now, going down the road, there are possibilities that have been discussed concerning independent power production and things of that nature with EEI. It clearly provides us with an additional synergy, I believe.
>
> Ted Payne: But, right now, its full intention to hold on to the entire 60% of the investment? There's no plans for disbursing it amongst the other holders?
>
> Chuck Mueller: We very definitely consider it a key asset and have no intention of disbursing it or disposing of it or anything else. We view this as being clearly one of the keys of this transaction is an added ownership share that we can jointly share in EEI Inc.

Q. HAS ANYONE AT AMEREN EVER PROVIDED YOU WITH AN ADEQUATE EXPLANATION OF WHY UE COULD NOT NEGOTIATE A CONTINUATION OF ITS EXISTING CONTRACT WITH EEI, GIVEN THAT AMEREN IS THE MAJORITY OWNER OF EEI?

A. No. No one at Ameren has ever been explained to me why it would not be possible for Ameren to negotiate an extension of this contract. If Ameren were truly interested in maximizing the financial performance of UE instead of being more concerned about the financial performance of UE's holding company, Ameren, then one would expect to see some efforts made by Ameren on UE's behalf to extend this contract on terms that are favorable to UE's ratepayers.

Q. SINCE UE STILL OWNS 40% OF THE STOCK OF EEI, WOULDN'T YOU EXPECT THE SENIOR OFFICERS OF UE TO TRY AND CONVINCE THE SENIOR OFFICERS OF AMEREN THAT THIS CONTACT SHOULD BE CONTINUED ON TERMS THAT ARE FAVORABLE TO UE?

A. Yes, but as mentioned previously in this testimony, the Chief Operating Officer and President of UE, Gary Rainwater, holds those same positions at UE's parent corporation, Ameren. Therefore, its only logical that his primary interest would be furthering the financial and strategic objectives of UE's holding company, Ameren, since this is the UE affiliate that books the earnings that are important to Ameren's shareholders.

Another twist in the story of senior Ameren officers holding senior offices in numerous affiliated entities are the multiple positions held by AEG's Senior Vice President Allen Kelly. Mr. Kelly is also the President of EEI. Mr. Kelly's boss at AEG is Gary Rainwater, the President of AEG. These relationships probably help explain why **

** Schedule RK-14 shows that AEG appears to have access to the new combustion turbine generating capacity being build by EEI, but UE does not. This schedule indicates that the AEG portion of the 5 additional Joppa CTs is 233 MW. Schedule RK-14 contains just a couple of pages from a presentation given by Gary Rainwater sometime in the year 2000.

Q. HAVE YOU SEEN ANY INFORMATION INDICATING THAT AMEREN WOULD LIKE TO HAVE UE'S EEI STOCK TRANSFERRED TO ONE OF AMEREN'S NON-REGULATED SUBSIDIARIES?

A. **

_____

_____

_____

_____

_____

_____

_____

_____ **

Q. DOES THE FACT THAT AMEREN WANTS ** _____

_____

_____

_____

_____ **

A. ** _____

_____

_____

_____ **

**Q. HOW MUCH WOULD UE'S FUTURE CAPACITY NEEDS CHANGE IF THE COMPANY TRANSFERRED ITS UE ILLINOIS SERVICE TERRITORY TO AMERENCIPS AND ** _____ **

A. UE's needs for future capacity would decrease by approximately ** _____ ** if both of these events were to occur. If UE's 40% ownership of EEI was leveraged to allow it to obtain 40% of the output from EEI's five combustion turbine units that were recently installed, then UE might have access to another 155 MW of additional capacity.

Schedule 3 of Craig Nelson's testimony shows that UE is projected to have a capacity shortfall of ** ** MWs in 2006. This shortfall would only be about ** ** if both the UE Illinois transfer were pursued and ** ** If UE was able to access a 40% share of the CTs that EEI recently added, then ** **

Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?

A. Yes.

U.S. Experience with Performance-Based Ratemaking

Dr. Mark Newton Lowry, *Partner*
Pacific Economics Group, LLC

CGA Workshop on PBR

Toronto, ON
27 February 2002

Plan of Presentation

Basic Approaches to PBR

Benefit Sharing Mechanisms

Plan Termination Provisions

Statistical Benchmarking

Frontiers of PBR Research

2. Earnings Sharing Mechanism

Example:

ROE < 9.0 %	50/50 split
9.0% < ROE < 12.0 %	no sharing
12.0% < ROE	50/50 split

Variants: No deadband
No symmetry
"Regressive" sharing percentages

Pro: Gains shared as realized
Reduces risk

Con: Weaker performance incentives *unless plan term extended*
Raises cost shifting concerns

Schedule RK-2
has been deemed
Proprietary
in its entirety.

Schedule RK-3
has been deemed
Proprietary
in its entirety.

Schedule RK-4
has been deemed
Proprietary
in its entirety.

Schedule RK-5
has been deemed
Proprietary
in its entirety.

Schedule RK-6
has been deemed
Proprietary
in its entirety.

Schedule RK-7
has been deemed
Proprietary
in its entirety.

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June 20, 2002

VIA HAND DELIVERY

Ms. Magalie Roman Salas, Secretary
Federal Energy Regulatory Commission
888 North Capitol Street, NE
Washington, DC 20426

Re: Docket Nos. EL02-65, *et al.*
Letters of Intent and Term Sheets For the Formation and Operation of GridAmerica, LLC under the Midwest ISO

Dear Ms. Salas:

Ameren Services Company ("Ameren"),[1] FirstEnergy Corp. ("FirstEnergy"),[2] Northern Indiana Public Service Company ("NIPSCO"), and the Midwest Independent System Operator, Inc. ("MISO") hereby submit their compliance filing in the above-referenced dockets.[3] This compliance filing sets forth in detail the plans of the GridAmerica Three to form GridAmerica LLC ("GridAmerica"). GridAmerica will be an unprecedented type of independent transmission company ("ITC") and will join the Midwest Independent System Operator, Inc. ("MISO"). These landmark proposals fully comply with the Commission's April 25, 2002 order in this docket[4] and with Order No. 2000.[5] National Grid USA ("National Grid") joins this filing in order to express its complete support for the proposals set forth herein.

---

1 Ameren is acting as agent for its electric utility affiliates, Union Electric Company d/b/a/ AmerenUE and Central Illinois Public Service Company d/b/a AmerenCIPS.

2 FirstEnergy is acting on behalf of its transmission company subsidiary, American Transmission Systems, Incorporated.

3 Ameren, FirstEnergy, and NIPSCO will be jointly referred to as the "GridAmerica Three." The "GridAmerica Participants" are Ameren, FirstEnergy, NIPSCO, and National Grid USA.

4 *Alliance Companies*, 99 FERC ¶ 61,105 (2002) ("April 25 Order"). The April 25 Order imposed on various parties differing compliance obligations. This filing is being made to comply with the obligations of Ameren, FirstEnergy, and NIPSCO to describe their plans to join an RTO. The filing also complies with the Commission's requirement that MISO and the GridAmerica Three describe the integration of the Alliance RTO's computer systems into MISO's systems.

In the April 25 Order, the Commission outlined its preferred allocation of functions between MISO, the nation's first approved RTO, and a new type of ITC. Specifically, the Commission strongly encouraged the parties to this proceeding to form, and place into operation *this year*, an ITC empowered to perform eight tasks: (1) consolidate the transmission systems of several utilities; (2) perform, under the authority of MISO, key RTO functions linking significant load to multiple sources generation within the Eastern Interconnect; (3) bring to the market the benefits of the ITC business model in support of fully functioning wholesale power markets; (4) use the systems and personnel that have already been developed for the Alliance RTO; (5) address problems inherent in the current method of transmission pricing, including problems related to the revenue transmission owners may lose by joining an RTO; (6) develop innovative service options; (7) provide a framework for further separation of transmission assets from vertically integrated utilities; and (8) create a vehicle for critically needed investment in transmission assets. This compliance filing meets all of these goals and provides for the formation of a fully independent ITC.

I. EXECUTIVE SUMMARY

This filing describes two closely related transactions. The filing contains the terms that will govern the formation and operation of GridAmerica, which will be an LLC under Appendix I to the MISO Open Access Transmission Tariff ("OATT"). The filing consists of two letters of intent, two term sheets, an appendix setting forth the delineation of functions between GridAmerica and MISO, and an appendix describing the integration of the Alliance RTO computer systems into the MISO computer systems.[6]

- The first letter of intent is signed by the GridAmerica Participants ("GridAmerica LOI"). The GridAmerica LOI obligates the GridAmerica Participants to negotiate the definitive agreements that will govern the formation and operation of GridAmerica. Those terms are described in the term sheet entitled "Term Sheet: National Grid – GridAmerica Three" ("GridAmerica Term Sheet"). The term sheet provides for GridAmerica to be formed as an LLC with National Grid as the managing member. The GridAmerica Three will sign Operation Agreements with GridAmerica providing for GridAmerica to exercise functional control over their transmission facilities. In addition, the term sheet provides a mechanism for the GridAmerica Three to divest their transmission assets to GridAmerica.

---

5 *Regional Transmission Organizations*, 65 Fed. Reg. 809 (Jan. 6, 2000), *order on reh'g*, 65 Fed. Reg. 12088 (Mar. 8, 2000), *aff'd sub nom. Public Utility Dist. No. 1 of Snohomish County, Washington v. FERC*, D.C. Cir. Case No. 00-1174 (unreported opinion).

6 This transmittal letter is intended as an overview of the attachments hereto. To the extent that the attachments differ from the descriptions in the transmittal letter, the attachments represent the agreement of the parties and, therefore, are controlling.

- The second letter of intent is signed by the GridAmerica Participants and MISO ("MISO LOI"). The MISO LOI obligates the parties to negotiate a definitive Appendix I agreement whereby GridAmerica will join MISO as an ITC. The terms to govern the Appendix I agreement are set forth in the term sheet entitled "Term Sheet for Agreement Among and Between National Grid USA, Ameren Services Company, FirstEnergy Corp., Northern Indiana Public Service Company, and Midwest Independent System Operator, Inc. ("MISO Term Sheet"). The MISO Term Sheet provides that GridAmerica will join MISO as an ITC within six months of the signing of the Appendix I agreement. Attached to the MISO Term Sheet is an appendix setting forth the division of functions between GridAmerica and MISO. Finally, the GridAmerica Participants and MISO are submitting a report describing the integration of Alliance RTO computer systems into MISO computer systems.

- The parties to this filing, with the help of key Commission staff members, have worked expeditiously to develop commercially reasonable arrangements to accomplish the goals of the April 25 Order. The parties expect to execute the necessary definitive agreements in a manner that would permit operation of GridAmerica to commence during the fourth quarter of 2002. Accordingly, the parties seek the Commission's further encouragement and guidance as soon as possible.

II. NOTICES AND COMMUNICATIONS

Notices and communications with respect to this submission may be addressed to the following:

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III. STATEMENT OF NATURE, REASONS AND BASIS FOR FILING

The GridAmerica Three were formerly Alliance Companies. On December 20, 2001, the Commission issued an order finding, for the first time, that the proposed Alliance RTO failed to meet the scope and configuration requirements of Order No. 2000. The December 20, 2001 order also ordered the Alliance Companies to pursue membership in MISO. On March 5, 2002, following unsuccessful negotiations related to MISO membership, the Alliance Companies filed a petition for declaratory order with the Commission. The petition asked the Commission to issue an order on the so-called "slice and dice" issue of which functions may properly be carried out by ITCs and which must be done by non-profit regional transmission organizations ("RTOs"). The petition also asked the Commission for guidance on various rate and revenue issues.

The Commission issued the April 25 Order in response to the Alliance Companies' petition for declaratory order. The Commission expressly "recognized that the ITC business model can bring significant benefits to the industry." *Alliance Cos.*, 99 FERC at 61,430. In the

April 25 Order, the Commission delineated those functions which may properly be conducted by an ITC and which must be conducted by a not-for-profit RTO. The April 25 Order also addressed the rate and revenue issues in a manner designed to foster revenue neutrality for the former Alliance Companies upon membership in an RTO. The Commission ordered the Alliance Companies to make compliance filings setting forth their decisions with respect to RTO membership by May 28, 2002.

On May 28, 2002, Ameren, FirstEnergy, and NIPSCO each made individual compliance filings stating that they planned to form an ITC under the MISO umbrella.[7] Since that time, the GridAmerica Three, National Grid, and MISO have been involved in negotiations in order to create an ITC that will operate under Schedule I to the MISO OATT and will fully comply with the April 25 Order. This further compliance filing demonstrates that these negotiations have been fruitful and that the parties are firmly committed to forming an ITC – to be known as GridAmerica – under the MISO umbrella as soon as practicable.

A. Letter of Intent and Term Sheet Governing Formation of GridAmerica LLC

Attachment A to this submission is the GridAmerica LOI. The letter of intent requires the parties to negotiate definitive agreements based upon a term sheet that forms the basis for GridAmerica's formation and operation.[8] Attachment B hereto is the GridAmerica Term Sheet.

The GridAmerica Term Sheet meets the requirements of Order No. 2000 and the April 25 Order in that it contains the provisions needed to establish a fully independent ITC under the MISO umbrella. The GridAmerica Term Sheet adopts the favorable business model contained in the proposal to form the Alliance RTO as an LLC with an non-market participant as the managing member. The GridAmerica Term Sheet provides that the GridAmerica Three will turn over functional control of their transmission systems to GridAmerica. National Grid will be the managing member of GridAmerica for an initial five-year term and, therefore, will have operational authority over the transmission assets owned by the GridAmerica Three pursuant to an Operation Agreement.[9] If, after three years of operations, any of the parties wishes to terminate the agreement, the party has a one-time option to do so on six months notice. The GridAmerica Three cannot replace National Grid as managing member during the term of the

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7 Ameren and FirstEnergy also indicated in their May 28, 2002 compliance filings that they would join MISO pursuant to Memoranda of Understanding that each has executive with MISO whether or not they could conclude immediately and achieve approval for a broader ITC transaction.as individual transmission owners if they were unable to create an acceptable ITC.

8 The GridAmerica Participants hope to complete, execute, and file the definitive agreements by July 31, 2002. MISO will not be a party to these agreements and will not be in a position to approve them. MISO, therefore, takes no position regarding the GridAmerica LOI and the GridAmerica Term Sheet.

9 As will be disclosed below, GridAmerica will only carry out those functions permitted by the April 25 Order to be conducted by ITCs. GridAmerica will enter into an Appendix I agreement with MISO that will permit MISO to conduct the remaining functions need to functionally control the transmission systems of the GridAmerica Three.

agreement except for cause. A two-thirds vote of the GridAmerica Three is needed in order to remove National Grid for cause.

The GridAmerica Three will pay National Grid a management fee of $3.5 million per year for the first three years to act as managing member of GridAmerica and $2.5 million per year in the fourth and fifth years. National Grid may also be entitled to additional compensation if it meets certain performance-based standards. The GridAmerica Term Sheet also requires National Grid to collect from MISO transmission revenue on behalf of the GridAmerica Three and to distribute that revenue to the appropriate transmission owner. The GridAmerica Term Sheet permits National Grid to admit additional companies to GridAmerica by entering into Operation Agreements with the new companies.

In addition, the GridAmerica Term Sheet contains provisions permitting the GridAmerica Three to divest their transmission assets to GridAmerica. In particular, the GridAmerica Three will have the right to put their assets to GridAmerica in return for passive ownership interests in the LLC equaling the fair market value of those assets. The ownership interests in GridAmerica obtained following divestiture may be transferred to a non-market participant. A non-market participant obtaining an ownership interest in GridAmerica will have the right to vote. The GridAmerica Term Sheet also permits, under appropriate circumstances, any divesting transmission owner to demand registration for an initial public offering ("IPO") for GridAmerica. The GridAmerica Term Sheet commits National Grid to invest $500 million in GridAmerica should sufficient transmission assets to put to the LLC. The $500 million will be comprised up to $25 million to fund the working capital needs of GridAmerica, with the remainder used to fund the purchase of transmission assets or capital expenditures to construct transmission facilities. Thus, GridAmerica will be organized in a manner permitting, at some point in the future, complete independence of transmission operations from generation or distribution functions.

In sum, the GridAmerica LOI and Term Sheet provide for a wholly independent ITC to have functional control over the transmission assets of the GridAmerica Three. The documents also provide that GridAmerica will operate under the MISO umbrella, utilizing the division of functions set forth in the April 25 Order.

B. Letter of Intent and Term Sheet between GridAmerica Participants and MISO

The MISO LOI is attached hereto as Attachment C. The MISO LOI obligates the parties to draft an agreement under Appendix I of the MISO OATT for GridAmerica to join MISO as an ITC. The MISO Term Sheet contains the provisions to be included in the Appendix I agreement and is attached hereto as Attachment D.

The MISO Term Sheet requires the GridAmerica Three and GridAmerica to execute the necessary agreements to join MISO for the term of the agreement. The parties have agreed to

begin operations within six months of the signing of the Appendix I agreement.[10] The MISO Term Sheet provides for a three-year term. The MISO Term Sheet also obligates the parties to support the delineation of functions between the ITC and the MISO that are set forth in the April 25 Order. This delineation of functions is set forth in Appendix D to the term sheet (which is attached hereto as Attachment E).

Appendix D will permit GridAmerica to provide the benefits to the industry described in the April 25 Order. For example, the proposed delineation of functions will permit GridAmerica to increase investment through improved asset management, to improve access to capital markets, and to develop innovative and beneficial services. *Alliance Cos.*, 99 FERC at 61,430. Appendix D complies with the April 25 Order by providing for one tariff to be administered by MISO. GridAmerica, however, has the unilateral right to make filings under Section 205 of the Federal Power Act ("FPA") for revenue requirements and rate design – including performance-based rate proposals – within the GridAmerica footprint. The split of functions effectuating the reservation of transmission services is set forth in Appendix D. GridAmerica, however, will be responsible for any special services it offers. The parties will use the MISO OASIS, with a special site page for GridAmerica. On an interim basis, GridAmerica will calculate Available Transmission Capacity and Total Transmission Capacity, subject to review and approval by MISO. In the long run, MISO will do all ATC calculations and will verify GridAmerica's TTC calculations.

Appendix D also provides that MISO will approve all maintenance for critical transmission facilities and is responsible for system security throughout the MISO region. MISO is also responsible for congestion management throughout the MISO region and ultimately responsible for managing parallel path flows. While MISO remains the provider of last resort for ancillary services under Appendix D, GridAmerica will provide ancillary services. MISO and GridAmerica will work together to plan and expand the transmission grid, with MISO having final authority over planning and expansion. MISO will also be responsible for market monitoring. Finally, on an interim basis, GridAmerica will propose a procedure governing losses, but MISO will ensure that this procedure is consistent with its processes. On a long-term basis, MISO will develop a system regarding losses.

The MISO Term Sheet requires GridAmerica to convey to MISO the right to use, for a seven-year term, the hard and soft capital assets developed by the Alliance Participants Administrative and Start-Up Activities Company LLC ("BridgeCo"). Clearly, use of these assets will reduce costs. MISO will pay 5/10 of BridgeCo's costs in developing these assets.[11] MISO

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[10] The parties expect to negotiate, execute, and file the Appendix I agreement by July 3, 2002 and to commence operations by December 1, 2002. This operational date assumes timely regulatory approval during the third quarter of this year, so that full RTO/ITC operations can be achieved during the fourth quarter of 2002.

[11] BridgeCo initially had 10 members. Three of those 10 members – Ameren, FirstEnergy, and NIPSCO – are GridAmerica Participants. Two of the original 10 – Consumers Energy Corporation and DTE Energy Corporation – have already joined MISO. Thus, MISO will pay GridAmerica for the shares of five of the 10 companies in the BridgeCo assets.

has also agreed to pay the GridAmerica Three their costs of complying with Order No. 2000. These payments will be amortized and included in MISO's Schedule 10 rate adder. As required in the April 25 Order, Attachment F to this compliance filing is a report on the integration of GridAmerica computer systems into MISO's computer systems. That document describes in details the planned uses of the various computer systems and the delineation of functions between the MISO and GridAmerica systems. Attachment F demonstrates the efficiencies that will result from the use of the GridAmerica systems.

In addition, MISO agrees to support the use of the GridAmerica Three's existing OATT rates and rate design for each utility's zone. MISO will also support the recovery of lost revenue by the GridAmerica Three related to the elimination of rate pancaking. Finally, MISO agreed to either discount or lower its rates for Drive-Out and Drive-Through service in order to maximize revenue while minimizing charges for this service. The term sheet also requires MISO to reimburse Ameren the $18 million plus interest paid pursuant to the settlement agreement in Docket No. ER01-123. *Illinois Power Co.*, 95 FERC ¶ 61,183, *order on reh'g*, 96 FERC ¶ 61,026 (2001). MISO will discuss the MISO Term Sheet with its Advisory Committee, and its high level officers have agreed to advocate and support the term sheet.

C. Establishment of GridAmerica Is In The Public Interest.

The provisions included in the attached letters of intent and term sheets implement the hybrid RTO model described by the Commission in the April 25 Order. When incorporated into definitive agreements, these terms will establish an independent and robust ITC under the MISO umbrella. The GridAmerica ITC will be responsible for discharging the functions deemed appropriate for transmission companies in the April 25 Order, while MISO will remain responsible for discharging the functions deemed appropriate for non-profit RTOs.

In addition, these terms will benefit consumers. The GridAmerica Three believe that the rate provisions comport with the April 25 Order and that the revenue neutrality provisions will ensure a level playing field during the transition period. The business model allows consumers to benefit from the increased efficiencies that will result from ITCs. Most importantly, however, the provisions will further the Commission's goal of establishing a large RTO in the Midwest.

As noted above, the GridAmerica Participants will file all of the definitive agreements as soon as practicable. In addition, the GridAmerica Three will also soon file an application under Section 203 of the Federal Power Act to transfer control of their jurisdictional transmission facilities to the MISO in accordance with the provisions of the attached letters of intent and term sheets.

IV. REQUEST FOR WAIVER

The GridAmerica Participants hereby request any waivers of the Commission's regulations necessary to permit timely consideration of this filing.

V. DOCUMENTS SUBMITTED

The following documents are being submitted with this filing:

1. An original and six copies of this transmittal letter;

2. An original and six copies of a letter of intent signed by Ameren, FirstEnergy, NIPSCO, and National Grid (Attachment A);

3. An original and six copies of a term sheet agreed to by Ameren, FirstEnergy, NIPSCO, and National Grid (Attachment B);

4. An original and six copies of a letter of intent signed by Ameren, FirstEnergy, NIPSCO, National Grid, and MISO (Attachment C);

5. An original and six copies of a term sheet agreed to by Ameren, FirstEnergy, NIPSCO, National Grid, and MISO (Attachment D);

6. An original and six copies of Appendix D to the MISO term sheet setting forth the division of functions between GridAmerica and MISO (Attachment E);

7. An original and six copies of the Technical Report on the Integration of GridAmerica Computer Systems used for administering Transmission Services into the Midwest ISO Computer Systems (Attachment F); and

8. An original and six copies of a form of notice suitable for publication in the *Federal Register*, along with an electronic version of the form of notice (filename – notice.doc).

VI. SERVICE

The GridAmerica Participants have served a copy of this filing upon all affected state commissions, state utility consumer advocates, and all parties listed on the official service list compiled by the secretary in this proceeding.

VII. CONCLUSION

For the foregoing reasons, the GridAmerica Participants and MISO respectfully request that Commission consider this filing and its attachments as expeditiously as possible. The Commission should find that the proposal set forth herein comports with the April 25 Order, Order No. 2000, and the public interest.

Respectfully submitted,

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Schedule RK-9
has been deemed
Proprietary
in its entirety.

Schedule RK-10
has been deemed
Proprietary
in its entirety.

Schedule RK-11
has been deemed
Proprietary
in its entirety.

Update on Restructuring and Review of Missouri's Electric Supply Situation

Missouri Joint Interim Committee on Telecommunications and Energy

October 22, 2001

Ryan Kind - Chief Energy Economist
Missouri Office of the Public Counsel

Total Capacity Requirements for IOUs, Munies, and Coops - 2001

- Investor Owned Utilities - 16,044 MW
- Municipal Utilities and Coops - 6,555 MW
- Total Capacity Requirements - 22,600 MW
- Annual load growth - 2% x 22,600= 450 MW
- 450 MW is the typical size for a natural gas power plant.

Note - Data on forecasted loads provided by Public Service Commission.

New Missouri Power Plants

COMPANY	CITY	ONLINE DATE	TYPE	STATUS	SUMMER CAPACITY MW
Aquila/Calpine	Pleasant Hill	6/1/01	Comb Cycle	Operating	500
Duke Energy N. America	Marble Hill	6/1/01	Combust Turb	Announced	640
Duke/Assoc. Electric Coop	Malden	6/1/01	Comb Cycle	Operating	260
Empire District	Joplin	6/1/01	Comb Cycle	Operating	300
KCPL	Kansas City	6/1/01	Coal	Operating	550
NRG	Vandalia	6/1/01	Combust Turb	Operating	640
Ameren Corp.	Columbia .	8/1/01	Combust Turb	Under Constr.	144
UMC	Columbia	12/1/01	Combust Turb	Under Constr.	26
AECI	Holden	6/1/02	Combust Turb	Under Constr.	321
Ameren Corp.	Bowling Green	6/1/02	Combust Turb	Under Constr.	200
Empire	???	6/1/03	Combust Turb	Announced	50
KCPL or GPP	???	6/1/03	Combust Turb	Announced	385
Kinder Morgan	St. Louis	8/1/03	Comb Cycle	Announced	510
Panda Montgomery Power	New Florence	9/1/03	Comb Cycle	Announced	1,170
Springfield Municipal	Springfield	9/1/03	Combust Turb	Under Constr.	100
Great Plains Power (GPP)	Weston	6/1/06	Coal	Announced	800
Total New Plants					**6,596**

Notes - New operating 2,250 MW, New Planned 4,346 MW, Aries plant full capacity on 1/1/02

New Power Plants On Line in 2001 Compared to Annual Load Growth

- Capacity needed to meet annual growth in demand is 450 MW.
- New plant capacity on line in 2001 - 2,250 MW.
- The KCPL Hawthorn plant was needed to serve existing KCPL load so not for load growth.
- New capacity in 2001 (excluding Hawthorne) was 3 times the capacity needed to serve load growth so Missouri is likely to remain a net exporter of power.

Planned Power Plants for 2001 - 2006 Compared to Annual Load Growth

- Planned new plant capacity for 2001 - 2006 is 4,346 MW.
- If only half (2,175 MW) of the announced plants are built, then these plants will provide for about 5 years of load growth. I believe it's highly likely that at least 1,226 MW of the announced plants will be built. The 1,226 figure excludes all of the larger projects proposed by GPE, Panda, Duke and Kinder Morgan.

Announced Power Plants for 2001 - 2006

- Not all announced plants will be built and not all plants that will be built through 2006 have been announced since some plants can be built in just one or two years and aren't announced until closer to construction.
- Additional new power plants may be announced as a result of the competitive long term power contracts that UtiliCorp and AmerenUE are currently trying to obtain.

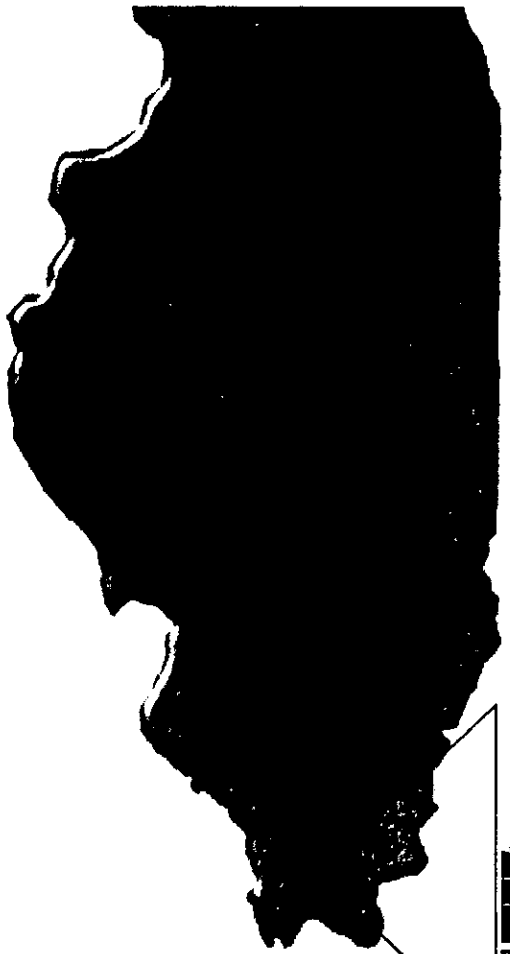
Schedule RK-13
has been deemed
Proprietary
in its entirety.

Schedule RK-14
Page 1 of 2

Ameren Energy Generating

CTGs in service

(as of August 15)



Joppa (5 units) - 233 MW (AEG portion)

- **In service: July 2**

(2 - 6B units)

- **In service: August 11**

(3 - 7B refurbished units)