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MISSOURI PUBLIC SERVICE COMMISSION

UTILITY OPERATIONS DIVISION

CROSS-SURREBUTTAL TESTIMONY

OF

MICHAEL S. PROCTOR

UNION ELECTRIC COMPANY

CASE NO. EO-98-413

FILED

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**Missouri Public
Service Commission**

Jefferson City, Missouri

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1 **CROSS-SURREBUTAL TESTIMONY**

2 **OF**

3 **MICHAEL S. PROCTOR**

4 **UNION ELECTRIC COMPANY**

5 **d/b/a AmerenUE**

6 **CASE NO. EO-98-413**

7

8

9 Q. WHAT IS YOUR NAME?

10 A. My name is Michael S. Proctor.

11 Q. ARE YOU THE SAME MICHAEL S. PROCTOR THAT FILED

12 REBUTTAL TESTIMONY IN THIS CASE?

13 A. Yes, I am.

14 Q. WHAT IS THE PURPOSE OF YOUR CROSS-SURREBUTTAL

15 TESTIMONY?

16 A. My cross-surrebuttal testimony will address the recommendations proposed

17 by the Office of Public Council's witness Ryan Kind and the Missouri Industrial Energy

18 Consumers' and Doe Run Company's witness James R. Dauphinais.

19 Q. HAVE SIMILAR RECOMMENDATIONS BEEN MADE BY MR. KIND

20 AND MR. DAUPHINAIS?

21 A. Yes. Both witnesses propose that as a condition to AmerenUE receiving

22 Commission authorization to join the Midwest Independent System Operator (ISO),

23 Ameren must agree to turn the control area operations for the Ameren control area over

24 to the Midwest ISO or, in the alternative, if the Midwest ISO does not agree to the

25 transfer, then Ameren would transfer its control area functions to a new independent

1 entity. This disposition of Ameren's control area function would only be done just prior
2 to the implementation of retail competition in Missouri.

3 Q. ASSUMING THE IMPLEMENTATION OF RETAIL COMPETITION, DO
4 YOU AGREE THAT THESE ARE REASONABLE CONDITIONS?

5 A. Yes, I do. Retail competition raises issues that simply would not otherwise
6 exist. In his rebuttal testimony (pages 6-10), Mr. Dauphinas describes several of these
7 issues that relate to short-term load forecasting and the reliability requirement that the
8 control area stand ready to provide sufficient generation within the control area to meet
9 the load requirements, net of exports and imports of electricity into the region.

10 Generally, this control area function is referred to as "load balancing," i.e., balancing
11 generation with load. The Midwest ISO leaves the load balancing function with the
12 existing utility control areas.

13 Clearly, in an environment where many competitive providers of generation will
14 be serving load within a control area, the responsibility for insuring sufficient scheduling
15 of generation to balance with load should not be left to a vertically integrated utility that
16 has an affiliated interest in the generation market. However, without retail competition,
17 the incumbent utility is responsible, and should be responsible, for meeting the load
18 requirements within its control area, net of exports and imports taking place in the
19 wholesale generation markets.

20 The Midwest ISO, as approved by the FERC last year, does have the role as the
21 scheduling agent for transmission involving its members. This function will require
22 those entities scheduling generation into, out of, or through the Midwest ISO's
23 transmission grid to set those schedules with the Midwest ISO, not with the individual

1 control areas within the ISO. The Midwest ISO will make known the level of net exports
2 and imports to the control areas without providing competitively sensitive information
3 about who is scheduling these transactions. In an environment absent retail competition
4 (i.e., today's wholesale competition environment), a structure in which the ISO does this
5 type of scheduling and the utility maintains the load balancing function within the control
6 area will likely be sufficient to prevent vertical market power abuse in wholesale
7 generation markets.

8 Q. WHY DOES RETAIL COMPETITION CHANGE THE ENVIRONMENT
9 IN WHICH THE SCHEDULING OF TRANSACTIONS TAKES PLACE?

10 A. In order to understand the new environment of retail competition, one must
11 view that environment from a perspective of the end state to which the market will
12 evolve. The market environment for the provision of electricity to retail customers will
13 be either one in which:

- 14 1. there are many competitive providers with generation alternatives located
15 within what are now called utility control areas, or
- 16 2. the transmission system is robust enough to expand the geographic area in
17 which generation can effectively compete beyond these control areas.

18
19
20 In the first scenario, the existing control area would have many generators
21 competing within its boundaries, and it is absolutely necessary that the load balancing
22 function within that control area be done by an independent entity. In the second
23 scenario, the size of the control area would be enlarged, and taken over by an
24 independent entity. While I do not necessarily agree with everything described in Mr.
25 Dauphinais' rebuttal testimony, I do agree with the principle that when a control area
26 operation involves making choices about the use of competitive alternatives, then the

1 entity making that choice must be independent of, i.e., not affected by, the outcome of
2 that choice.

3 Q. IN YOUR VIEW DOES AMERENUE NEED TO AGREE TO TURN OVER
4 ITS LOAD BALANCING FUNCTION TO AN INDEPENDENT ENTITY AS A
5 CONDITION FOR IT RECEIVING COMMISSION AUTHORIZATION TO JOIN THE
6 MIDWEST ISO?

7 A. I believe that AmerenUE committing to turn over its load balancing function
8 to an independent entity at some future time fixes a problem that could better be fixed at
9 a future time when the implementation of retail competition appears to be more imminent
10 in Missouri. If this were the last time that the Commission will have before it the issue of
11 load balancing, then I would want a commitment to have this issue resolved. However, I
12 do not believe that now is the time to force this requirement. The electric industry is in a
13 highly dynamic state of transition, one in which structures are constantly evolving.
14 Instead of requiring what appears to be an available solution at this time, I recommend
15 that the Commission wait until near the end of the Midwest ISO transition period to
16 consider the possibilities that exist at that time. I firmly believe that with evolving
17 structures, it is highly likely that a better resolution of the load balancing issue will
18 become available over the next six years than that which is presently available. If retail
19 competition is implemented in Missouri before the end of the six-year Midwest ISO
20 transition period, then the load balancing issue would need to be addressed at that time as
21 part of the implementation conditions for all investor owned utilities.

22

23

1 Q. WHAT ARE SOME EXAMPLES OF TRANSMISSION STRUCTURES
2 THAT ARE CURRENTLY EVOLVING?

3 A. What I see slowly developing is a progression involving the following
4 elements:

- 5 1. Through utilities signing agency agreements, for example, with a Regional
6 Transmission Organization (RTO) within a Regional Reliability Council, the
7 RTO provides regional transmission service, including:
 - 8 a. Regional transmission rates for short-term transactions;
 - 9 b. Regional transmission rates for long-term, point-to-point transactions;
 - 10 c. Regional transmission rates for long-term network service;
 - 11 d. Determination of Available Transfer Capability (ATC);
 - 12 e. Provision of ancillary services through the utilities; and
 - 13 f. Scheduling of regional transmission service.
- 14
15 2. Through utilities signing agency agreements with an RTO, the RTO provides
16 regional security services, including:
 - 17 a. Transmission congestion management;
 - 18 b. Line loading relief;
 - 19 c. Generation redispatch;
 - 20 d. Load curtailment.; and
 - 21 e. Coordinated transmission, maintenance and planning.
- 22
23 3. With respect to retail competition, the independence of the RTO can be
24 established by the transmission owning utilities:
 - 25 a. Transferring the control of transmission assets to the RTO;
 - 26 b. Forming larger control areas and designating an independent entity to
27 operate that new control area; or
 - 28 c. Divesting themselves of ownership of transmission assets.
- 29
30 4. With respect to wholesale markets, energy market services can be provided
31 within the RTO, including:
 - 32 a. Primary markets for the sale of non-firm transmission;
 - 33 b. Secondary markets for exchange of firm transmission;
 - 34 c. Primary markets for long-term, firm rights to transmission on
35 congested interfaces;
 - 36 d. Markets for generation redispatch;
 - 37 e. Primary markets for the sale of ancillary services; and
 - 38 f. Spot-markets for hourly exchange of electricity.
- 39

1 Services under “1” above result in elimination of pancaked transmission rates and
2 enhance the efficiency of the wholesale generation markets. Services under “2” above
3 enhance the reliability of the transmission grid by moving many of the fundamental
4 control functions to an entity with a regional, rather than a local, scope.

5 Under “3” above, the issues move to a different level because the retail
6 competition environment is significantly different than the present regulated retail
7 environment. Currently, the industry is moving to one of the three options listed under
8 “3”. These are the options that I believe Mr. Kind and Mr. Dauphinais are requesting as
9 conditions for AmerenUE receiving authorization from the Commission to join the
10 Midwest ISO.

11 Category “4” above, dealing with market developments, is the category where the
12 strongest elements of change are likely to occur over the next five years.

13 Many of the concerns addressed by Mr. Dauphinais in his seven-point outline of
14 what control area operators currently do (pages 6 and 7 of Mr. Dauphinais’ rebuttal
15 testimony) will be taken over by market functions that will be coordinated through the
16 RTO. My advice to the Commission is that it wait to see how these market functions
17 develop and include an evaluation of Ameren’s vertical market power with respect to the
18 load balancing function as a part of a required review at the conclusion of the Midwest
19 ISO’s six-year transition period respecting the continued approval by the Commission of
20 Ameren’s membership in the Midwest ISO.

21 Recall, my rebuttal testimony recommends that the Commission “grant
22 AmerenUE permission to join the Midwest ISO for an initial period of six years,” and
23 “AmerenUE should file with the Commission, no later than six months prior to the end of

Surrebuttal Testimony of
Michael S. Proctor

1 this initial six-year period, a request to join the Midwest ISO, or perhaps another ISO, on
2 a permanent basis.” I recommended that AmerenUE address two conditions in that
3 filing:

- 4 1. An equitable resolution of the post-transition application of the Midwest
5 ISO tariff to bundled retail load that has been approved by the FERC; and
6
- 7 2. Adoption of a transmission planning criterion which utilizes incentives
8 and disincentives for location of generation that has been approved by the
9 FERC.

10
11 Q. HAVING READ MR. KIND’S AND MR. DAUPHINAIS’ REBUTTAL
12 TESTIMONY, WOULD YOU AMEND THE RECOMMENDATIONS MADE IN
13 YOUR REBUTTAL TESTIMONY?

14 A. Yes, I would add a third condition which AmerenUE should address in its
15 filing with this Commission for authorization to join on a permanent basis the Midwest
16 ISO at the end of the initial six-year period, or for authorization to join another ISO or a
17 RTO. That condition is:

- 18 3. A proposal for addressing the need for independence in the load balancing
19 function assuming implementation of retail competition in Missouri.
20

21 Q. ARE THERE ANY OTHER ISSUES RAISED IN THE REBUTTAL
22 TESTIMONY OF EITHER MR. KIND OR MR. DAUPHINAIS?

23 A. Yes, there are. Mr. Kind recommends that the Commission include in its
24 order in this case a statement that AmerenUE must request Missouri Commission
25 authorization to withdraw from the Midwest ISO prior to doing so. Mr. Dauphinais
26 recommends that the Commission order transmission facilities not previously transferred
27 to the control of the Midwest ISO by AmerenUE be transferred to the Midwest ISO six
28 months prior to the start of retail competition in Missouri, but if the Midwest ISO Board

1 of Directors declines to accept transfer, then no later than 12 months before the start of
2 retail competition in Missouri, transfer to the control of a new independent entity would
3 occur.

4 Q. DO YOU AGREE WITH EITHER OF THESE RECOMMENDATIONS?

5 A. I agree with Mr. Kind's recommendation, although I assumed that given the
6 background of this proceeding, if AmerenUE were to decide to leave the Midwest ISO, it
7 would be required to obtain Missouri Commission approval. However, in order to clarify,
8 I would agree with Mr. Kind's proposal that in its authorization for AmerenUE to
9 participate as a member of the Midwest ISO for the initial six-year period, the
10 Commission should include a condition requiring AmerenUE to request Commission
11 authorization prior to withdrawing from the Midwest ISO, if and when AmerenUE makes
12 a decision to withdraw.

13 Q. DO YOU ALSO AGREE WITH MR. DAUPHINAIS' CONCERN?

14 A. I understand Mr. Dauphinais concern. However, I believe that concern is
15 already addressed by the requirement that each member of the Midwest ISO file with its
16 state commission a case in which the separation between transmission and distribution is
17 to be determined. This would then be followed by a filing at the Federal Energy
18 Regulatory Commission (FERC) in which the FERC would give deference to the findings
19 of the state commissions so long as the state commissions apply the criteria adopted in
20 Order 888 for determining which facilities are transmission and which are distribution.
21 In Order 888, the FERC set out what has come to be known as the "seven factor test" for
22 determining the separation between transmission and distribution facilities.

1 My understanding of the Midwest ISO is that subsequent to these determinations
2 of which facilities are transmission and which facilities are distribution, the transfer of
3 transmission facilities to the control of the Midwest ISO would be amended to include all
4 transmission facilities. If any of the facilities that are classified as distribution have the
5 potential for vertical market power, the mitigation of that market power would come
6 under the jurisdiction of the state commission. Therefore, I do not believe that Mr.
7 Dauphinais' second recommendation is a necessary condition for AmerenUE to join the
8 Midwest ISO. If the Commission were to include such a condition, I would recommend
9 that the Commission's Order include a date by which AmerenUE must make its filing
10 with this Commission for the determination of facilities to be classified as either
11 transmission or distribution.

12 Q. DOES THIS COMPLETE YOUR CROSS-SURREBUTTAL TESTIMONY?

13 A. Yes, it does.

My commission expires 06/18/2001