

Exhibit No.:
Issues: Joint Dispatch Agreement
Witness: Craig D. Nelson
Sponsoring Party: Union Electric
Type of Exhibit: Cross-Surrebuttal Testimony
Case No.: EC-2002-1
Date Testimony Prepared: June 24, 2002

MISSOURI PUBLIC SERVICE COMMISSION

CASE NO. EC-2002-1

CROSS-SURREBUTTAL TESTIMONY

OF

CRAIG D. NELSON

ON BEHALF OF

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

**St. Louis, Missouri
June 24, 2002**

1 **CROSS-SURREBUTTAL TESTIMONY**

2 **OF**

3 **CRAIG D. NELSON**

4 **CASE NO. EC-2002-1**

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

6 A. My name is Craig D. Nelson. My business address is One Ameren Plaza,
7 1901 Chouteau Avenue, St. Louis, Missouri, 63166-6149.

8 **Q. Are you the same Craig D. Nelson who previously filed rebuttal**
9 **testimony in this proceeding?**

10 A. Yes.

11 **Q. What is the purpose of your testimony?**

12 A. The purpose of my testimony is to rebut the testimony of James R. Dittmer
13 offered on behalf of the Office of Public Counsel (OPC) concerning the Joint Dispatch
14 Agreement (JDA). I will also respond to Mr. Dittmer on the issue of regulatory
15 uncertainty.

16 **Q. Please summarize the conclusions reached in your Cross-Surrebuttal**
17 **testimony.**

18 A. In effect, Mr. Dittmer has improperly changed the terms of the JDA
19 without having obtained any regulatory approvals from the Federal Energy Regulatory
20 Commission (FERC) or state commissions and in a way which discriminates against the
21 parties to the JDA. Approved contracts should be followed and honored, not ignored.
22 His recommendations employ a hindsight attack on an approved agreement such as the
23 JDA. Such hindsight attacks should not be allowed or they will create uncertainty as to

1 the regulatory treatment to be afforded to the Company's planning decisions. The
2 Commission should therefore not accept the adjustment that he proposed.

3 **Q. What has Mr. Dittmer recommended regarding the JDA?**

4 A. He contended that the JDA is deficient and that its terms should not be
5 followed in setting revenue requirements for UE's Missouri retail customers. In
6 particular, he contended that the JDA was not properly allocating joint dispatch savings
7 to UE.

8 **Q. What is your overall response to Mr. Dittmer's recommendations?**

9 A. I strongly disagree with them. In recommending adjustments to the JDA
10 for retail revenue requirements purposes, Mr. Dittmer has, in effect, unilaterally changed
11 the terms of the contract based on what he believes is now appropriate. As a result, Mr.
12 Dittmer has ignored Staff's recommendations in a prior case that any proposed changes
13 to the JDA should first be submitted to the Commission and to the FERC for approval.
14 The Commission should reject his recommendations and should honor the JDA unless
15 and until it has been changed by all applicable regulatory agencies.

16 **Q. Has the JDA been approved by the applicable regulatory agencies?**

17 A. Yes. As I discussed in my rebuttal testimony, the JDA has been approved
18 by the Missouri Commission, the FERC, the Illinois Commerce Commission and the
19 Securities and Exchange Commission (SEC). (at pp. 7-12) Regarding Missouri, the
20 Commission approved the original JDA in the UE-CIPSCO merger proceeding, and
21 approved amendments to the JDA in the "Genco proceeding". I would note in the order
22 approving the Genco Stipulation the Commission expressly indicated that it had
23 "previously approved" the JDA in the merger case. (See Schedule 2-11 attached to my

1 Rebuttal testimony, containing the Order issued January 13, 2000 in Case No. EA-2000-
2 37.)

3 **Q. As a matter of policy and fairness, do you believe that the parties to**
4 **this case should be allowed to ignore or change the JDA absent obtaining regulatory**
5 **approval for those items?**

6 **A.** Absolutely not. Parties should not be encouraged to disregard an
7 approved contract. Contracts should be followed until they terminate according to their
8 terms or until they are changed after all regulatory approvals are obtained.

9 **Q. Are you aware of whether the OPC has had any prior opportunities to**
10 **review and comment on the JDA in any earlier regulatory proceedings?**

11 **A.** Yes. As I indicated in my earlier testimony, and as referenced above, the
12 Company submitted the original JDA to the Missouri Commission as part of the UE-
13 CIPSCO merger approval proceeding. The OPC participated actively in that case, and
14 signed a stipulation recommending approval of the merger. The JDA, approved as a part
15 of the merger, was an important way to achieve merger savings. OPC apparently
16 understood this when it signed the merger stipulation, or should have understood it.
17 Further, I indicated that in the Genco Proceeding the Company proposed amendments to
18 the JDA to reflect the transfer of the CIPS generating to the new generating affiliate.
19 Once again, the OPC participated actively in that proceeding and signed a stipulation
20 supporting the transfer. As a result, the OPC had an opportunity on two occasions to
21 review and critique the allocation methods set forth in the JDA. For the OPC to do so
22 now through Mr. Dittmer's testimony is an improper hindsight attack on the JDA. The

1 Commission should therefore reject the adjustments which he proposed to the Company's
2 revenue requirements based on his after the fact revisions to the approved JDA.

3 **Q. How does OPC's hindsight attack on the JDA create regulatory**
4 **uncertainty for the Company?**

5 A. I discussed this in my May testimony (at p. 25). The same points which I
6 made in response to Staff's hindsight attack on the JDA apply to the OPC and to Mr.
7 Dittmer's testimony. In summary, such a hindsight attack, if allowed by the
8 Commission, would compromise the Company's resource planning process and
9 complicate it substantially. In particular, it frustrates the Company's ability to make
10 decisions based on what it believes to be the appropriate criteria at the time the decision
11 is made.

12 **Q. Please summarize your testimony.**

13 A. The JDA has been approved by various regulatory agencies. Changes to
14 the terms of the agreement, or after the fact rate-making adjustments which essentially
15 change its terms, should not be made without the approval of those agencies. Hindsight
16 attacks on approved contracts create regulatory uncertainty and should not be allowed.

17 **Q. Does this conclude your testimony?**

18 A. Yes it does.

Respondent.)

CITY OF ST. LOUIS

DEBBY ANZALONE
Notary Public - Notary Seal
STATE OF MISSOURI
St. Louis County
My Commission Expires: April 18, 2006