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MISSOURI PUBLIC SERVICE COMMISSION

Case No. EO-2011-0271

REVISED SURREBUTTAL TESTIMONY

OF

WARREN WOOD

ON

BEHALF OF

**UNION ELECTRIC COMPANY
d/b/a Ameren Missouri**

**St. Louis, Missouri
December, 2011**

Company Exhibit No. 3
Date 12/15/11 Reporter RWB
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1 solving many types of engineering problems. My work while at Black & Veatch focused on
2 new and retrofit work on coal, combustion turbine, and nuclear power plant projects. I
3 worked for Questec Engineering in Columbia, Missouri in 1997 and 1998. While at Questec
4 I was a project manager in charge of site development and completion of numerous types of
5 engineering projects for industrial, commercial and residential customers.

6 I worked for the Missouri Public Service Commission (“Commission”) for a little
7 over eight years. Initially I was hired as a Regulatory Engineer in the Procurement Analysis
8 Department of the Commission. While working in the Procurement Analysis Department I
9 investigated the natural gas purchasing practices of Missouri’s natural gas utilities and filed
10 testimony in procurement analysis and actual cost adjustment audit cases. Later I was
11 employed as the Natural Gas Department Manager, promoted to the newly created Energy
12 Department Manager position and was later promoted to Utility Operations Division
13 Director. As the Natural Gas Department Manager I oversaw the regular tariff filings at the
14 Commission of the natural gas utilities in the state, the Commission’s activities in interstate
15 natural gas pipeline cases at the Federal Energy Regulatory Commission (“FERC”) and the
16 activities of the Commission’s natural gas safety section. As the Energy Department
17 Manager I oversaw the activities of the natural gas department sections listed above in
18 addition to the activities of the engineering and economic analysis sections, which dealt
19 primarily with electric utilities in the state. As the Utility Operations Division Director I
20 oversaw the day-to-day activities of the Operations Division, regularly participated in
21 Commission policy development efforts, participated in discussions and gave presentations
22 to stakeholder groups, and legislative committees, conducted roundtables and facilitated
23 rulemaking workshops.

1 **Q. Does your interpretation of the purpose of the IRP rules agree with the**
2 **views expressed by other parties in their rebuttal testimony?**

3 A. Yes and no. In their rebuttal testimony, Mr. Rogers and Mr. Kind both
4 correctly quote 4 CSR 240-22.010(2), which states:

5 The fundamental objective of the resource planning process at
6 electric utilities shall be to provide the public with energy
7 services that are safe, reliable and efficient, at just and
8 reasonable rates, in a manner that serves the public interest.
9

10 Mr. Kind then argues that the public interest has not been met since the Company has
11 not committed to higher investments in demand side management (DSM) resources because
12 in his view minimization of PVRR did not receive an appropriate weighting in the
13 Company's establishment of its preferred resource plan. Mr. Rogers and Mr. Mosenthal
14 make similar arguments. As I will explain more in this testimony, they are attempting to
15 define the public interest as only applying to customers and ignoring the need for fair and
16 timely utility cost recovery required under MEEIA. The arguments put forth by Mr. Rogers
17 and Mr. Kind, in addition to conflicting with MEEIA requirements, if taken to their logical
18 extreme, ignore the need for the Company to be able to attract investment from shareholders
19 in order to be able to continue to provide safe and reliable service.

20 Mr. Rogers acknowledges the Commission's responsibility to consider the needs of
21 shareholders in response to Data Information Request (DR) Ameren-MPSC-003 (attached as
22 Schedule WW-E1) when he states "...The Missouri Public Service Commission has a
23 statutory obligation to protect the interests of all stakeholders involved in the provisioning of
24 utility service, including the Company's investors/shareholders." Furthermore, when Mr.
25 Rogers was asked if the "public interest" includes consideration of those members of the
26 public who invest in Ameren Missouri securities in DR Ameren-MPSC-014 (attached as

1 Schedule WW-E2) he replied “Yes”. Mr. Mosenthal acknowledges the same responsibility
2 of the Commission and it’s importance to meeting the long term public interests in response
3 to DR Ameren-NRDC-037 (attached as Schedule WW-E3) when he states “...However, as
4 part of its duty of protecting the public interest, MPSC has a role in ensuring reasonable and
5 fair returns to shareholders to ensure long term public interests can be met by Ameren.”

6 **Requirements of MEEIA**

7 **Q. What are the requirements of MEEIA?**

8 A. Regarding valuing demand-side investments equal to traditional investments
9 and development of cost recovery mechanisms, Section 393.1075.3 of the Missouri Revised
10 Statutes states:

11 It shall be the policy of the state to value demand-side
12 investments equal to traditional investments in supply and
13 delivery infrastructure and allow recovery of all reasonable and
14 prudent costs of delivering cost-effective demand-side
15 programs. In support of this policy, the commission shall:
16 (1) Provide timely cost recovery for utilities;
17 (2) Ensure that utility financial incentives are aligned with
18 helping customers use energy more efficiently and in a
19 manner that sustains or enhances utility customers’
20 incentives to use energy more efficiently; and
21 (3) Provide timely earnings opportunities associated with
22 cost-effective measurable and verifiable efficiency
23 savings.
24

25 It is important to highlight that this statute requires alignment of interests between the
26 utility and customers as part of achieving MEEIA’s goal of “achieving all cost-effective
27 demand-side savings.” (Section 393.1075.4 RSMo.)

28

1 **Q. What views of MEEIA are expressed by Mr. Rogers, Mr. Kind and**
2 **Mr. Mosenthal in their rebuttal testimony?**

3 A. Mr. Rogers makes several references to MEEIA in his rebuttal testimony. On
4 pages 3 and 4 of his rebuttal testimony Mr. Rogers recommends that the Commission not
5 order Ameren Missouri to redo its analysis and to file a revised electric utility resource
6 planning filing in this case if the Company commits to do four things, the second
7 commitment being:

8 Notify the Commission that its preferred resource plan and
9 resource acquisition strategy have changed to contingency
10 resource Plan R0 conditioned only upon the Company
11 receiving Commission approval of its realistically achievable
12 portfolio (“RAP”) of demand-side management (“DSM”)
13 programs and for approval of a fair demand-side programs
14 investment mechanism (“DSIM”) under the Missouri Energy
15 Efficiency Investment Act (“MEEIA”) rules;
16

17 Mr. Kind also makes several references to MEEIA in his rebuttal testimony. On page
18 6 of his rebuttal testimony he notes that:

19 UE’s concerns about how lost revenues will be treated under
20 the DSM regulatory framework in Missouri are premature
21 since neither UE or any other electric utility has yet filed an
22 application with the Commission under the MEEIA rule and
23 learned from actual experience how the Commission will
24 respond to DSM cost recovery proposals that include lost
25 revenue recovery or DSM incentives (which can also mitigate
26 the impact of lost revenues).
27

28 Both Mr. Rogers and Mr. Kind acknowledge no MEEIA filing has been yet made or
29 approved and point to the importance of MEEIA related to the IRP process and how energy
30 efficiency investments will be recovered. Mr. Mosenthal refers to MEEIA and its goal of
31 achieving “all cost-effective demand-side savings” but fails to note the statutory obligation of
32 the Commission to align the interest of the utility and customers in pursuit of this goal.

1 At the time this IRP was developed the Commission had not finalized its rules
2 implementing MEEIA. The rules implementing MEEIA were finalized approximately three
3 months after this IRP plan was filed and approximately six months after the DSM analysis
4 for this IRP plan was conducted. Unfortunately, much uncertainty and risk remains
5 regarding how MEEIA will be implemented by the Commission. The rules implementing
6 MEEIA are currently under challenge, including the issue of whether lost revenues constitute
7 a recoverable cost. The Company considers it likely that even if the Commission approves a
8 MEEIA filing by the Company it will be further challenged.

9 At the time this IRP was developed and filed, and as of this filing date of this
10 testimony, the alignment of utility financial incentives with helping customers use energy
11 more efficiently has not been achieved. Under Commission rate case rulings and related
12 orders the Company has spent tens of millions of dollars on energy efficiency programs,
13 which have been successful at reducing energy use, and has incurred tens of millions of
14 dollars in lost fixed cost recoveries directly related to these investments in energy efficiency.

15 Regarding implementation of an IRP preferred plan that would include pursuing RAP
16 (Plan R0), Mr. Rogers included the following on page 6 of his rebuttal testimony (emphasis
17 added):

18 **Q. Would Plan R0 serve the interest of both Ameren Corporation's**
19 **shareholders and Ameren Missouri ratepayers?**

20 A. It would if the Commission approves Ameren Missouri's RAP DSM programs
21 and a fair DSIM under MEEIA. But that cannot be addressed until Ameren Missouri files for
22 approval of the RAP DSM programs and for approval of a DSIM under MEEIA.

23

1 which “may constrain or limit the minimization of the present worth of expected utility
2 costs.” These other considerations can include cost recovery and impact on shareholders. In
3 fact, in response to DR Ameren-MPSC-021 (attached to Matt Michels Surrebuttal Testimony
4 as Schedule MM-E4), when asked “Does Staff believe that the impact of Preferred Resource
5 Plan selection on investors a valid consideration under 22.010(2)(C)?” Mr. Rogers replied
6 “Yes”.

7 It should be noted that PVRR is the full revenue requirement required to cover all
8 utility costs, including return. It does not however typically reflect the amount that is
9 collected from customers through rates as it does not consider regulatory lag, lost revenue
10 impacts from energy efficiency efforts, etc... PVRR for RAP reflects no lost revenues, just
11 the legitimate avoided cost benefits of DSM.

12 **Q. Are there any limits in applying PVRR as a primary selection criteria in**
13 **choosing a preferred resource plan under the IRP?**

14 **A. Yes.** Use of PVRR as a primary selection criterion is subject to legal and
15 practical limitations. For example, counsel advises me that a utility could not be compelled
16 to adopt a resource plan when it cannot recover the cost of that resource plan through rates,
17 even if it did minimize PVRR. Nor could a utility be compelled to adopt a resource plan that
18 could not be implemented, such as construction of a plant that could not be financed, or for
19 some other reason simply could not be built. The use of PVRR as the primary selection
20 criteria must be read in light of these limitations.

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Previous IRP Rule Requirements

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Q. In their rebuttal testimony, Mr. Rogers, Mr. Kind, Mr. Noller, and Mr. Mosenthal state that the Company has not utilized minimization of PVRR as a primary selection criteria and is therefore in violation of the Commission’s IRP rules, do you agree?

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A. No. Mr. Kind takes the position that “primary” means a weighting factor of greater than 50%. Mr. Rogers, Mr. Noller, and Mr. Mosenthal make arguments that the weighting given to PVRR in the Company’s analysis does not meet the standard of being a primary selection criterion while not going so far in their comments as to define what weighting factor would be sufficient to meet the standard.

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In any analysis with multiple factors in which different factors are given different weights the primary factor is the factor with the greatest weight. Mr. Rogers, Mr. Kind and Mr. Noller attempt to argue that this is not reasonable by noting that taken to its logical extreme minimization of PVRR could receive a weighting percentage below 50%. If the logical argument of Mr. Rogers, Mr. Kind, and Mr. Noller is taken to its extreme, they are arguing that no matter what other constraints the utility may be facing in its resource planning, minimization of PVRR must be the criterion that drives the final answer. This is not only inconsistent with the requirements of MEEIA and with thoughtful resource planning; it is inconsistent with the principal that the Commission, through its IRP rules, should not manage the decisions of the utility.

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Minimization of PVRR was a primary selection criterion used by the Company in selecting its preferred resource plan, consistent with the requirements of the IRP rules.

1 The interests of shareholders are a part of the public interest that the Commission must weigh
2 in its decisions. In making its decisions, the Commission cannot ignore shareholder interests,
3 the ratemaking consequences of its decisions, or force the Company to adopt a plan that will,
4 by design, cause the Company to lose money or make bad business decisions. MEEIA
5 requires alignment of utility and customer interests in pursuing the goal of achieving all
6 cost-effective demand-side savings. The Company is working to achieve that alignment but
7 as of the writing of this testimony that alignment has not yet been achieved.

8 **Q. Does this conclude your surrebuttal testimony?**

9 A. Yes, it does.

Data Information Request
From Union Electric Company d/b/a Ameren Missouri
MPSC Case No. EO-2011-0271

Requested From: Missouri Public Service Commission Staff – John Rogers

Requested By: Wendy Tatro

Date of Request: 11/04/2011

Information Requested:

Who does Staff believe is responsible for protecting the interests of Ameren Missouri's investors?

Response:

The members of Ameren Missouri's board of directors have the responsibility to protect the Company's investors/shareholders¹, through their fiduciary obligation to make decisions that are in the best interest of Ameren Missouri's investors/shareholders. The Missouri Public Service Commission has a statutory obligation to protect the interests of all stakeholders involved in the provisioning of utility service, including the Company's investors/shareholders.

Response Provided By: John Rogers Date: November 23, 2011

¹ Those holding Ameren Corporation's debt securities and stock certificates.

Data Information Request
From Union Electric Company d/b/a Ameren Missouri
MPSC Case No. EO-2011-0271

Requested From: Missouri Public Service Commission Staff– John Rogers

Requested By: Wendy Tatro

Date of Request: 11/04/2011

Information Requested:

Does Staff believe that the “public interest” includes consideration of those members of the public who invest in Ameren Missouri securities? If not, why not? If not, in what way do the IRP rules reflect the obligation of regulators to balance the interest of customers and investors?

Response:

Yes.

Response Provided By: John Rogers Date: November 23, 2011

Data Information Request
From Union Electric Company d/b/a Ameren Missouri
MPSC Case No. EO-2011-0271

Requested From: Natural Resource Defense Council – Philip Mosenthal

Requested By: Wendy Tatro

Date of Request:

Information Requested:

Who does NRDC believe is responsible for protecting the interests of Ameren Missouri's investors?

Response:

Response Provided By: _____ Date: _____

NRDC Responses to Ameren UE Data Requests in MPSC Case No. EO-2011-0271

Prepared by Philip Mosenthal

Dated November 23, 2011

Ameren-NRDC-036

NRDC believes that Ameren Missouri has an obligation under the Missouri IRP guidelines to objectively analyze the least cost opportunities for meeting all energy resource needs in its territory, regardless of the possible or perceived impact on Company earnings. NRDC does not believe that an IRP is a commitment to fund DSM. Further, NRDC believes that the Company can propose regulatory solutions that would enable it to resolve any perceived negative impact on Company earnings through the MEEIA filing process.

Ameren-NRDC-037

Ameren Missouri is primarily responsible for protecting the interests of its shareholders. However, as part of its duty of protecting the public interest, MPSC has a role in ensuring reasonable and fair returns to shareholders to ensure long term public interests can be met by Ameren.

Ameren-NRDC-038

NRDC believes there could be other considerations contemplated by the language of section 22.010(2)(C) beyond the three explicitly stated. NRDC notes that this section directs quantification of "any other considerations which are critical to meeting the fundamental objective of the resource planning process." However, NRDC's Witness Mosenthal is not a lawyer and declines to speculate on the intent of this section beyond the language stated. NRDC notes that nothing in this section diminishes 22.010(2)(B) that establishes minimization of PVRR as the "primary selection criteria."

Ameren-NRDC-039

No.

Ameren-NRDC-040

N/A

Ameren-NRDC-041

As 22.010(2)(C) directs, the Company should quantify and analyze these other considerations. However, they do not remove the requirement of "minimization of PVRR as the *primary selection criteria*." Rather, these other considerations should

Data Information Request
From Union Electric Company d/b/a Ameren Missouri
MPSC Case No. EO-2011-0271

Requested From: Missouri Public Service Commission Staff– John Rogers

Requested By: Wendy Tatro

Date of Request: 11/04/2011

Information Requested:

Staff indicates that “Ameren Missouri has made – and continues to make – very limited effort to achieve the DSM cost recovery solution necessary for it to choose Plan R0...” Is it Staff’s belief that the only way to achieve the appropriate cost recovery solution is through a MEEIA filing?

Response:

Yes, and Staff contends that a MEEIA filing should be in compliance with both the MIEEA statute (Section 393.1075, RSMo. Supp. 2010) and the MEEIA rules (Rules 4 CSR 240-3.163, 4 CSR 240-3.164, 4 CSR 240-20.093 and 4 CSR 240-20.094) as well as any other applicable laws and regulations.

Response Provided By: John Rogers Date: November 23, 2011