Exhibit No.: _____
Issue(s): Noranda Ice Storm AAO / Major Storm Expense Annualization and Tracker / Vegetation Management and Infrastructure Inspection Expense Annualization and Tracker / DOE Breach of Contract Settlements / Rate Case Expense / Corporate Franchise Tax /
Witness/Type of Exhibit: Robertson/Surrebuttal
Sponsoring Party: Public Counsel
Case No.: ER-2014-0258

REVISED

SURREBUTTAL TESTIMONY

OF

TED ROBERTSON

Submitted on Behalf of the Office of the Public Counsel

UNION ELECTRIC
D/B/A
AMEREN MISSOURI

CASE NO. ER-2014-0258

** **

Denotes Highly Confidential Information

February 6, 2015

NP

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Union Electric Company d/b/a Ameren Missouri's Tariff to Increase Its Revenues for Electric Service	)))))	Case No. ER-2014-0258

AFFIDAVIT OF TED ROBERTSON

STATE OF MISSOURI)
) **ss**
COUNTY OF COLE)

Ted Robertson, of lawful age and being first duly sworn, deposes and states:

1. My name is Ted Robertson. I am the Chief Public Utility Accountant for the Office of the Public Counsel.

2. Attached hereto and made a part hereof for all purposes is my surrebuttal testimony.

3. I hereby swear and affirm that my statements contained in the attached testimony are true and correct to the best of my knowledge and belief.

Ted Robertson, C.P.A.
Chief Public Utility Accountant

Subscribed and sworn to me this 6th day of February 2015.

NOTARY PUBLIC NOTARY SEAL STATE OF MISSOURI

JERENE A. BUCKMAN
My Commission Expires
August 23, 2017
Cole County
Commission #13754037

Jerene A. Buckman
Notary Public

My Commission expires August 23, 2017.

TABLE OF CONTENTS

Testimony	Page
Introduction	1
Purpose of Testimony	1
Noranda Ice Storm AAO	2
Major Storm Expense Annualization and Tracker	6
Vegetation Management and Infrastructure Inspection Expense Annualization and Tracker	11
DOE Breach of Contract Settlements	16
Rate Case Expense	19
Corporate Franchise Tax	24

SURREBUTTAL TESTIMONY
OF
TED ROBERTSON

UNION ELECTRIC COMPANY
d/b/a AMEREN MISSOURI
CASE NO. ER-2014-0258

I. INTRODUCTION

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. Ted Robertson, P. O. Box 2230, Jefferson City, Missouri 65102.

Q. ARE YOU THE SAME TED ROBERTSON THAT HAS PREVIOUSLY FILED DIRECT AND REBUTTAL TESTIMONY IN THIS CASE?

A. Yes.

II. PURPOSE OF TESTIMONY

Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?

A. The purpose of this surrebuttal testimony is to address the rebuttal testimonies of Ameren Missouri (Ameren or Company) witnesses, Ms. Lynn M. Barnes, Ms. Laura M. Moore, and Mr. David N. Wakeman regarding their positions on the ratemaking treatment of the Noranda Ice Storm Accounting Authority Order (AAO) deferred cost recovery, major storm expense annualization and tracker amortization, vegetation management and infrastructure inspection expense annualization and tracker amortization, U.S.

Department of Energy (DOE) breach of contract settlements, rate case expense, and Missouri corporate franchise tax.

III. NORANDA ICE STORM AAO

Q. WHAT IS THE COMPANY'S RECOMMENDATION FOR THE AMOUNTS DEFERRED PURSUANT TO THE ACCOUNTING AUTHORITY ORDER AUTHORIZED IN CASE NO. EU-2012-0027?

A. Beginning on page 63, line 20, of her rebuttal testimony, the Company's witness, Ms. Lynn M. Barnes, she states:

> Q. What is Ameren Missouri's proposed treatment in this case of the amounts deferred in File No. EU-2012-0027?
>
> A. The Company proposes to amortize the deferred amounts over five years.

Q. WHAT IS THE DEFERRED BALANCE AND WHAT WOULD BE THE ANNUAL AMORTIZATION EXPENSE INCLUDED IN RATES IF THE COMPANY'S PROPOSAL IS AUTHORIZED BY THE COMMISSION?

A. Beginning on page 26, line 6, of her direct testimony, the Company's witness, Ms. Laura M. Moore, she identifies the deferred balance and annual amortization expense as:

> Per the Report and Order in File No. EU-2012-0027, Ameren Missouri <u>deferred the lost fixed costs of $35,561,503</u> related to the 2009 ice storm

> that caused Noranda Aluminum to reduce its load. The amortization expense is increased by $7,112,000 to include the five-year amortization of this regulatory asset in Adjustment 16.
>
> (Emphasis added by OPC)

Q. WHAT IS THE PUBLIC COUNSEL'S POSITION ON THIS ISSUE?

A. Public Counsel is opposed to the recovery of the deferred amounts because the alleged costs represent nothing more than revenue requirement authorized in the Company's 2008 rate case that the Company did not ultimately earn. The parties utilization of the semantics "lost revenues" or "lost fixed costs" is really nothing more than a mischaracterization of the portion of the previously authorized revenue requirement that the Company did not collect from Noranda, and/or from every other customer on the Company's system that were subject to the tariffed rates. Ameren's request for the Commission to authorize recovery in the current case underearnings that occurred in a prior year is not reasonable or appropriate, and should be disallowed.

Q. IS IT REASONABLE AND APPROPRIATE TO ALLOW THE COMPANY TO RECOVER REVENUES IT DID NOT COLLECT FROM RATES SET IN A PRIOR CASE IN THE CURRENT CASE?

A. No, it is not, and the Commission itself has stated that it is not. On page 18 of the Commission's Report and Order in Ameren Missouri Case No. EC-2014-0223, the Commission stated:

> Ameren Missouri has simply charged its customers the electric rates the Commission authorized it to charge in its last rate case. Although the parties, and this order, speak of overearnings, doing so is just a shorthand way of describing a situation where the utility is earning more from its rates than was anticipated when those rates were established. If a company is overearning, or underearning, the Commission may need to adjust future rates to correct the imbalance. But the Commission cannot order Ameren Missouri to "pay the money back" by refunding past overearnings, nor can it allow the utility to collect past underearnings from its customers.
>
> (Emphasis added by OPC)

Q. DOES A REVENUE REQUIREMENT AUTHORIZED BY THE COMMISSION REPRESENT A GUARANTEE TO THE UTILITY OF FUTURE RECOVERY?

A. No. The revenue requirement authorized by the Commission only represents an opportunity to earn that amount; it is not a guarantee that the Company will be allowed to seek future reimbursement if there is any shortfall in the amount. It is up to the Company's management to achieve the earnings to recover the cost of service (i.e., return on rate base, and reasonable and prudent expenses) authorized for recovery by the Commission. In the absence of that recovery, the Company should not be allowed in a later future case to recoup revenue requirement it did not earn.

Q. IS IT YOUR UNDERSTANDING THAT IF THE COMMISSION AUTHORIZES THE RECOVERY OF THE DEFERRED EXPENSES THAT RECOVERY WOULD REPRESENT RETRO-ACTIVE RATEMAKING?

A. Yes. As I understand it, based on the advice of counsel, recovery of the expenses deferred in the AAO likely would represent retro-active ratemaking because the expenses deferred were already included in the revenue requirement of a prior rate case - Case No. ER-2008-0318.

Q. IS THERE ANYTHING ELSE DIFFERENT IN THIS AAO REQUEST COMPARED TO OTHER ICE STORM AAO DEFERRALS WITH WHICH YOU ARE FAMILAR?

A. Yes. In all prior ice storm AAO cases of which I am aware, the costs authorized for deferral were related directly to the repairing of the infrastructure damage that the utility itself incurred. The costs deferred included, in most cases, a return on and of new investment until the plant could be included in rate base in a subsequent general rate increase case along with incremental labor and incremental other miscellaneous costs. However, to my knowledge, the Company did not incur any infrastructure damage to its system pursuant to the ice storm in January 2009. The storm damage that actually occurred was to transmission lines operated by Associated Electric Cooperative – not Ameren. The Company incurred no storm damage to its systems so none of the expenses deferred with the Noranda Ice Storm AAO represent normal costs usually deferred in an ice storm AAO. What they do represent is revenue requirement not earned.

IV. MAJOR STORM EXPENSE ANNUALIZATION AND TRACKER

Q. WHAT IS THE COMPANY'S RECOMMENDATION FOR THE ANNUAL LEVEL OF EXPENSE FOR THIS ISSUE?

A. Beginning on page 30, line 1, of the rebuttal testimony of, Company's witness, Ms. Laura Moore, she states:

> Q. What does Ameren Missouri propose to use for storm costs?
>
> A. Ameren Missouri proposes storm costs of approximately $4,600,000 based on a 60-month normalization period.
>
> Q. Why has Ameren Missouri proposed the 60-month normalization period?
>
> A. A 60-month normalization period was agreed upon by both Staff and Ameren Missouri and was the normalization period ordered by the Commission in File No. ER-2012-0166. As the Commission pointed out in its Report and Order from that case, even if one has data going back for a long period of time (citing 79 months and 94 months as examples), at some point, the normalization period would become too long to be reliable. Sixty months is long enough to capture the varied history of storm levels without going back so far as to lose the normalization benefit.

Q. IS THE COMPANY'S POSITION NOW THE SAME AS THAT OF THE MPSC STAFF?

A. Yes.

Q. DOES PUBLIC COUNSEL OPPOSE THE ANNUAL LEVEL OF MAJOR STORM EXPENSE NOW RECOMMENDED BY BOTH THE COMPANY AND MPSC STAFF?

A. No. However, it is my understanding that parties to the case, i.e., OPC, MPSC Staff and MIEC, have had problems obtaining accurate actual major storm expense amounts incurred by the Company for several of the time periods utilized in the Company's recommended normalization period. The Company just recently has provided the parties with new information that attempts to reconcile the errors and/or differences. After reviewing the Company's recently provided information, I will provide the Commission with an update of the Public Counsel's recommendation, as appropriate, in true-up testimony.

Furthermore, Public Counsel takes issue with Ms. Moore's comments that the use of the entire population of actual incurred historical costs creates a normalization period that is too long to be reliable. The Company's records show that the actual major storm expenses it has incurred have shown some variability from one year to the next. Given the variability that exists, utilization of the entire population of actual costs incurred is, in fact, and from a statistical point of view, the most relevant and appropriate database from which to develop the normalization period for the annual major storm expense on a going-forward basis.

Q. DOES THE COMPANY OPPOSE THE OPC, MPSC STAFF AND MIEC WITNESSES' RECOMMENDATION TO DISCONTINUE THE UTILIZATION OF THE MAJOR STORM TRACKER GOING FORWARD?

A. Yes. Company witness, Mr. David N. Wakeman, states, beginning on page 11, line 7, of his rebuttal testimony, that he believes that the Commission should allow the major storm tracker to continue.

Q. DOES PUBLIC COUNSEL AGREE WITH MR. WAKEMAN'S PROPOSAL?

A. No. Mr. Wakeman seems to base his conclusions on two premises to which I agree in part and disagree in part: 1) major storm costs are large uncontrollable expenses that vary dramatically year-to-year, and 2) the two-way tracker does not have any significant downside for either the Company or its customers.

Q. PLEASE CONTINUE.

A. Mr. Wakeman's assertion that the costs vary dramatically year-to-year is, I believe, an accurate assessment of how historical costs have been incurred. As I discussed above, major storm costs have exhibited a tendency for some variability on a year-to-year basis; however, not unlike many other costs that the Company incurs on a yearly basis, a database of historical costs does exist upon which to develop an annualized cost level. Other than the fact that we agree that yearly costs have varied year-to-year, Mr. Wakeman's beliefs and mine diverge significantly.

For example, Mr. Wakeman's assertion that costs are uncontrollable by management seems to imply that the Company's management has absolutely no control over the costs incurred after a major storm event occurs. This is not a rational conclusion. Only a very naive person would say that management has control over when an major storm event itself occurs, but it is equally naive to say that management does not have any control over the actual costs it incurs to repair its system (after an event) – even if only on a limited basis. It is the responsibility of the Company's management to control the operation of the utility, and one major facet of operations is costs incurred. There have been no allegations made in the current case that the Company is not doing its best to control major storm costs; however, even Mr. Wakeman must admit that if the Company did not have an abnormal regulatory ratemaking tracker wherein all incurred costs are essentially guaranteed recovery, the incentive to control future costs for major storm events then would be quite high on the Company management's to-do list.

Furthermore, Mr. Wakeman's assertion that there is no significant downside for either the Company or ratepayers if the tracker is continued shows a fundamental lack of understanding of how rates for regulated public utilities in the state of Missouri normally are developed. That is, rates in Missouri normally are developed from historical and/or known and measureable costs. Once authorized by the Commission, the recovery of those costs, i.e., revenue requirement, is not guaranteed nor is a specific earnings return

guaranteed for the Company. Therein, risk exists for both shareholders and ratepayers. The Company may over-earn or under-earn its Commission authorized return, but that is part and parcel of the regulatory compact that exists in this State. When compared to the regulatory compact, a tracker mechanism is nothing more than an abnormal regulatory ratemaking aberration that should only be utilized for special situations where historical costs do not exist and should be discontinued as soon as a database of historical costs upon which to develop an annual level of cost becomes available.

Q. DOES PUBLIC COUNSEL ALSO BELIEVE THAT THE ANNUALIZED LEVEL OF MAJOR STORM COSTS RECOMMENDED IN THIS CASE IS RELATIVELY INSIGNIFICANT WHEN COMPARED TO THE COMPANY'S TOTAL ANNUAL OPERATING EXPENSES?

A. Yes. Comparing the annual level of major storm expense going forward, as recommended by Ms. Moore (i.e., $4,600,000), to the Company's total operating expense developed by the MPSC Staff (source: Staff Direct Staff Accounting Schedules - $2,437,489,272) shows that Ms. Moore's recommended annual expense amount represents less than 2/10ths of 1% of the Company's total operating expenses (i.e., $4,600,000 divided by $2,437,489,272). Certainly, the $4.6 million dollars Ms. Moore recommends as an annualized level of expense is not an immaterial amount of money. But, Public Counsel does not believe that $4.6 million is a significant enough amount to justify a special tracker mechanism to replace the normal regulatory ratemaking

processes and procedures, particularly given that a sufficient database of historical costs now exists upon which the Commission can rely in order to develop an annual level of expenses to include in the development of rates.

V. VEGETATION MANAGEMENT AND INFRASTRUCTURE INSPECTION EXPENSE ANNUALIZATION AND TRACKER

Q. WHAT IS THE COMPANY'S RECOMMENDATION FOR THE ANNUAL LEVEL OF EXPENSE FOR THIS ISSUE?

A. Beginning on page 31, line 1, of her rebuttal testimony, the Company's witness, Ms. Laura Moore, states that the Company's direct testimony proposal was to include a base level of $55,400,000 for the vegetation management expense and a base level of $5,800,000 for the infrastructure inspections expense. She states the amounts are based on actual expenses incurred during the test year.

Q. HAS THE COMPANY NOW CHANGED ITS PROPOSAL?

A. Yes. Beginning on page 31, line 20, of her rebuttal testimony, Ms. Moore states that the Company now proposes to use the actual incurred amounts through the true-up for the base level of expenses because that is consistent with the treatment of the base level expenses used in the Company's last three rate cases.

Q. DOES PUBLIC COUNSEL BELIEVE THIS IS REASONABLE OR APPROPRIATE?

A. No. Public Counsel disagrees with the Company's proposal for several reasons: 1) the test year expenses identified by Ms. Moore are not accurate, 2) the annual level of expenses incurred for vegetation management since 2009 have shown no significant trending either increasing or decreasing while the infrastructure inspections annual level of expenses have steadily decreased until the test year of the current case, and 3) Public Counsel, the MPSC Staff and MIEC witnesses all recommend the discontinuance of the trackers mechanisms for these costs. Accordingly, what occurred in prior rate cases is not relevant going forward since the setting of the base level expense in those cases was merely a prelude to the tracking of any difference in actual costs incurred from the base level expense authorized.

Q. PLEASE EXPLAIN THE ERRORS IN MS. MOORE'S TEST YEAR AMOUNTS?

A. The base level of test year expenses Ms. Moore identifies in her rebuttal are incorrect because what the amounts actually represent is the Company's forecast of actual expenses for the twelve months ended December 2014 (the end of the true-up period) – not the test year which is the twelve months ended March 2014. Her direct testimony work papers LMM-WP-425 and LMM-WP-501 show that the Company utilized forecasted amounts for the months of April 2014 through December 2014 to derive the amounts she describes as actual expenses incurred during the test year.

Q. WHAT ARE THE ACTUAL TEST YEAR EXPENSES INCURRED AS OF THE TWELVE MONTHS ENDED MARCH 2014?

A. The actual test year expense incurred for vegetation management was $56,289,626 and for infrastructure inspection $5,924,356.

Q. WHY SHOULDN'T THE ANNUAL EXPENSE AUTHORIZED IN THE CURRENT CASE FOR VEGETATION MANAGEMENT ACTIVITIES BE BASED ON EITHER THE TWELVE MONTHS ENDED MARCH 2014 OR DECEMBER 2014?

A. For the five preceding twelve-month periods ending in March, the Company's actual vegetation management expense has been somewhat variable, both up and down, within a range of $48,858,868 to $56,289,626. In year two the expenses decreased to $48,858,868 from the year one amount of $51,349,250. In year three the actual expense increased to $55,515,566 and then decreased to $50,520,899 in year four.

Clearly, the actual expense incurred by the Company during the prior five years is subject to variability; therefore, the best regulatory ratemaking methodology to utilize to determine the annual expense level going forward is normalize the costs based on an average of actual historical costs. Ms. Moore's proposal does not take into account any variability in the actual expenses and does not identify any trending that would suggest that the actual expenses will continue to increase from the actual test year or true-up

period level. That is why Public Counsel recommends that the annual level of expense be based on a normalization of the known database of historical costs.

Q. SHOULD THE ANNUAL EXPENSE AUTHORIZED IN THE CURRENT CASE FOR INFRASTRUCTURE INSPECTION ACTIVITIES BE BASED ON EITHER THE TWELVE MONTHS ENDED MARCH 2014 OR DECEMBER 2014?

A. No. For the five preceding twelve-month periods ending in March, the Company's actual infrastructure inspection expense has decreased in all years except for the twelve months ended March 2014. In the first year the expenses were $8,165,926 while in year four they were $5,373,259 – a decrease of $2.8 million. For the twelve months ended March 2014, the actual incurred expense was $5,924,356 – an increase of only $551 thousand over year four. These costs have shown a clear and substantial decreasing trend in all years except the test year. That is why Public Counsel recommends a two year normalization of the costs utilizing the twelve-month period ending in March 2013 and March 2014. Since the future actual expenses are not known and measurable, Public Counsel believes that the two-year normalization is the best methodology to protect both shareholders and ratepayers from possible future over or under recovery of the expenses.

Q. WHY IS THE COMPANY'S PROPOSAL TO UTILIZE THE ACTUAL INCURRED EXPENSE FOR THE TWELVE MONTHS ENDING DECEMBER 2014 AS THE ANNUAL LEVEL OF EXPENSES FOR VEGETATION MANAGEMENT AND

INFRASTRUCTURE INSPECTIONS ACTIVITIES UNREASONABLE AND INAPPROPRIATE?

A. Above I described for the Commission that the actual incurred level of expense for vegetation management has been variable on a year-to-year basis while those of the infrastructure inspection activities have been trending down significantly. For both types of expenses, I have recommended a normalization approach as the best methodology to develop an annual expense level on a going-forward basis. However, Ms. Moore suggests that the true-up period should be used because that is the way it has been done in the last three cases.

Public Counsel disagrees with Ms. Moore's proposal because, in the referenced cases, the continuation of the tracker was a primary reason for setting the base level as authorized. In the current case, Public Counsel, the MPSC Staff and MIEC witnesses all recommend that a sufficient database of historical actual costs exists upon which to determine an annualized level of costs to include in the development of rates. The trackers authorized by the Commission were setup to protect both shareholders and ratepayers because the new rules associated with the programs had no history upon which to base an annual level of costs with any accuracy. Public Counsel believes that a credible historical database of actual costs is now available, and so, it is time to move the development of these costs to a normal regulatory ratemaking process and eliminate the abnormal tracker mechanism.

VI. DOE BREACH OF CONTRACT SETTLEMENTS

Q. DID THE COMPANY RECEIVE THE 4TH QUARTER 2014 REIMBURSEMENT YOU DISCUSSED IN YOUR REBUTTAL TESTIMONY?

A. Yes. The Company's response to OPC Data Request No. 1041 and MPSC Staff Data Request No. 353s1 stated that the reimbursement was received in December 2014.

Q. HOW DID THE COMPANY BOOK THE REIMBURSEMENT?

A. The proceeds were booked to cash and as an offset to Nuclear Construction Work In Process (CWIP) accounts as a reimbursement for the Dry Cask Storage Project costs.

Q. IS IT THE COMPANY'S POSITION THAT ALL FUTURE REIMBURSEMENTS ALSO BE UTILIZED AS A REDUCTION IN THE COSTS OF THE DRY CASK STORAGE PROJECT COSTS?

A. No. Beginning on page 36, line 5, of her rebuttal testimony, the Company's witness, Ms. Laura M. Moore, states:

> Q. Has Staff proposed an adjustment in relation to the DOE Breach of Contract Settlements?
>
> A. No. Staff has not proposed an adjustment in this case related to the DOE Breach of Contract Settlement. Although, Staff has recommended the Commission order the Company to return all future refunds that stem from settlements that Ameren Missouri has reached with DOE to ratepayers.

Q. Does the Company agree with this recommendation?

A. No. Staff's focus on this refund ignores the fact there are also costs that change between rate cases that the Company does not get to recover. For example, in File No. ER-2012-0166 the true-up period ended July 31, 2012, and property taxes are not paid until December 2012. The amount that was allowed in rates for that case was based on the property taxes paid in 2011. The increase in the property taxes paid in 2012 was never recovered by the Company. Also, the settlement amounts that were booked as miscellaneous non-utility operating revenue related to refunds of expenses that were incurred in a period of time that Ameren Missouri was not involved in rate cases. Requiring the Company to pass these refunds through rates to be set in this case would result in a windfall to current customers.

Q. DOES PUBLIC COUNSEL BELIEVE THAT MS. MOORE'S ARGUEMENT MAKES SENSE?

A. No. Ms. Moore seems to be discussing two different points: 1) that the December 2014 reimbursement should not be included in the development of rates authorized in the current case, and 2) that future DOE reimbursements should not be returned to ratepayers via a reduction of investment costs.

Regarding the first point, as I discussed above, Company booked the December 2014 reimbursement to CWIP so that reimbursement will not be included in the development of rates in the current case. According to the way Company has booked the reimbursement, it will, unless Company changes its position, be included in the development of rates in the rate case subsequent to the plant investment to which it is

associated is transferred to plant-in-service. Thus, it is a not an issue in this case unless the CWIP balance associated with the Dry Cask Project was transferred to plant-in-service as of December 31, 2014, and it is my understanding that it was not.

Regarding Ms. Moore's second point, under Missouri regulatory ratemaking prudent used and useful investment is usually based on the most current level existing at the time of the test year, known and measurable period or true-up period. If the Company incurs an investment cost, but that cost is paid for by an entity other than the Company, e.g., contributions in aid of construction or insurance reimbursement, the cost of the investment which Company did not pay for is not included in the development of rates. Shareholders are not allowed to recover expenses the did not pay for, nor are they allowed to earn a return on or return of investment costs which they did not incur. It would be illogical to allow the Company to earn a return on or return of a rate base investment which cost it nothing. Future DOE reimbursements should be utilized to reduce the investment cost incurred by the Company in the same manner as the Company booked the December 2014 reimbursement.

Q. WHAT IS PUBLIC COUNSEL'S RECOMMENDATION FOR THIS ISSUE?

A. As stated in my rebuttal testimony, Public Counsel believes that all DOE reimbursements related to this issue should flow back directly to ratepayers via a reduction of the plant investment cost the Company incurs because of the contract breach. It is a common

concept of regulatory ratemaking theory that a regulated utility is only allowed to earn a return on and return of investment for which it actually incurs a cost. If the cost of an investment is reduced by a ratepayer contribution or proceeds from another entity, shareholders are not allowed to earn any return on or of the portion of the investment not paid for by the Company. The Company should not be allowed to treat the DOE reimbursements as unregulated revenues because they are directly related to reducing the cost of the plant investment related to the DOE breach of contract settlement.

Q. IS PUBLIC COUNSEL OPPOSED TO REDUCING THE AMOUNT OF FUTURE REIMBURSEMENTS RETURNED TO RATEPAYERS FOR PRUDENT AND REASONABLE INCREMENTAL COSTS INCURRED BY THE COMPANY TO OBTAIN THE REIMBURSEMENTS?

A. No.

VII. RATE CASE EXPENSE

Q. WHAT IS THE ISSUE?

A. This issue concerns rate case costs the Company incurred to process the recent Rate Design Complaint Case, No. EC-2014-0224. Public Counsel believes that most of the costs the Company incurred to process that case were arguably booked to the wrong Uniform System of Accounts (USOA) Account, and that a majority of the total costs were imprudently incurred. Public Counsel believes that the booking issue is a minor

issue with no ratemaking effect; however, ratepayers should not be required to reimburse the Company for the imprudent costs. Thus, Public Counsel recommends that the imprudent costs should be disallowed from the development of rates in the instant case.

Q. WERE THE COSTS INCURRED BY THE COMPANY IN CASE NO. EC-2014-0224 INCURRED DURING THE TEST YEAR FOR THE INSTANT CASE?

A. Some of the charges were incurred during the test year, but most were incurred in the true-up period authorized for the instant case.

Q. WHAT COSTS DID THE COMPANY BOOK INACCURATELY?

A. The Company booked its legal and consultant costs to a legal reserve liability account, but the Company stated that the offsetting expense entry was charged to USOA Account 923 - Outside Services. Public Counsel believes that the costs incurred, both legal and consulting, should have been booked to USOA Account 928 Regulatory Expenses.

Q. WHAT COSTS DID THE COMPANY INCUR TO PROCESS CASE NO. EC-2014-0224?

A. The Company's response to OPC Data Request No. 1035 and MPSC Staff Data Request No. 479 identify that the Company incurred legal costs ** **, outside experts (consulting) costs ** **, and miscellaneous outside support, hotels, meals and travel costs ** **.

NP

Q. WHICH OF THE ABOVE COSTS DOES PUBLIC COUNSEL BELIEVE WERE IMPRUDENTLY INCURRED?

A. Public Counsel believes that almost all of the costs are imprudent and should have never been incurred. Because this was a complaint case filed against the Company, the Company was certainly required to participate, but because the issues to be determined in the case had little or no impact on the Company or its shareholders, the extent to which the Company participated far outweighed what should be considered reasonable and necessary.

Q. PLEASE CONTINUE.

A. Regarding legal costs, the Company incurred the services of two separate firms: 1) Brydon, Swearengen & England P.C. and 2) Smith Lewis, LLP. Brydon, Swearengen & England P.C. total charges were ** **, while charges for Smith Lewis, LLP were approximately ** **. Public Counsel believes that these large costs should never have been incurred because it is likely the Company's own in-house legal staff could have been utilized to process the case due to the absence of any substantial risk to the Company's operations or its shareholder's earnings.

Q. DID THE COMPANY ALSO INCUR SIGNIFICANT OUTSIDE EXPERT CHARGES?

NP

A. Yes. The Company incurred even larger total charges for three outside expert firms: 1) Brattle Group ** **, 2) Pierre Arseneault ** **, and 3) Healy & Healy, Attorney's at Law, LLC ** **. Hourly rates for the consultants varied depending on the personnel utilized at the respective firm; however, the hourly rates incurred were as high as ** ** for Brattle Group (Mr. Mudge was ** **), ** ** for Pierre Arseneault (in addition to a retainer fee of ** **), and ** ** for Healy & Healy, Attorney's at Law, LLC.

Q. DOES PUBLIC COUNSEL BELIEVE THAT ALL THE OUTSIDE EXPERT CHARGES SHOULD BE DISALLOWED?

A. Yes. Public Counsel believes that all of the outside expert charges identified above were imprudently incurred given the limited rate design issues to be determined in the case. That is, the services of the three outside expert firms were unnecessary. As the Commission has noted before, when the Company has internal expertise capable of being brought to bear in a case more cheaply than the use of outside expertise, the Company should employ the internal expertise. A Company of Ameren's size retains employees capable of understanding and presenting testimony on the relevant issues that were to be determined in that case. Had the Company utilized their own employees, the outside expert charges would not have been incurred. Thus, they should be disallowed.

Q. SHOULD THE MISCELLANEOUS CHARGES ALSO BE DISALLOWED?

NP

A. Public Counsel believes that some portion of the total miscellaneous charges relate to either the legal or outside service providers identified above, but because the amount is relatively immaterial and cannot be accurately determined from the Company's data request response, and it likely that the Company's personnel would have incurred similar costs, no disallowance is required for these charges.

Q. PLEASE SUMMARIZE THE PUBLIC COUNSEL'S POSITION ON THIS ISSUE?

A. Public Counsel recommends, for the reasons stated above, that the Commission disallow the legal and outside expert charges the Company incurred in Case No. EC-2014-0224 because the charges were imprudently incurred. To the extent that the test year includes a portion of the costs identified, those costs should be removed from the annual level of costs for the accounts where they were booked. If the accounts in which these costs were booked are either updated or included in the true-up, the charges included in those periods should be disallowed.

VIII. CORPORATE FRANCHISE TAX

Q. HAS PUBLIC COUNSEL RECEIVED ADDITIONAL INFORMATION FROM THE COMPANY REGARDING THE CORPORATE FRANCHISE TAX ISSUE?

A. Yes. Since the filing of rebuttal testimony, Public Counsel has received data request responses identifying and describing how corporate franchise tax and any tax credit offset were calculated and allocated between the Company's electric and gas operations in prior years. In addition, Company has recently provided a supplemental response to OPC Data Request No. 1040 which included the Missouri 2015 corporate franchise tax schedule (Form MO-FT) and a listing of Missouri tax credits available to offset the 2015 tax liability.

Q. IS THE 2015 TAX LIABILITY BASED ON CALENDAR YEAR END 2014 FINANCIAL INFORMATION?

A. Yes. Public Counsel understands that the information and account balances required to calculate the 2015 tax liability are determined from the Company's calendar year 2014 (i.e., end of the instant case true-up period) financial records. Furthermore, the 2015 tax liability represents the last year of corporate franchise tax that the Company will incur before the corporate franchise tax is eliminated completely.

Q. WHAT IS PUBLIC COUNSEL'S RECOMMENDATION REGARDING THE RATEMAKING TREATMENT OF THE 2015 CORPORATE FRANCHISE TAX LIABILITY?

A. Public Counsel recommends that the 2015 corporate franchise tax liability less tax credits be normalized over a period of 18 months. Utilizing the 2015 corporate franchise tax

information provided by the Company, Public Counsel recommends that a normalized annual amount of ** ** be included in the development of rates for the Company's electric operations (i.e., ** **). Utilization of the ** ** as the annual cost results in an adjustment that decreases the Company's actual test year expense by ** ** (i.e., ** ** booked electric test year less the ** **).

Public Counsel believes its recommendation is fair to both the Company and ratepayers since it is Public Counsel's understanding that the Company intends to file for a new general rate increase case shortly after the finalization of the current case. If the Company does indeed file a new rate case as expected, it is likely that rates developed in that subsequent case will be authorized near the end of the 18 month timeframe of the recommended normalization period, thus allowing the Company to recover fully its actual incurred cost while, if it files the new case as expected, not over-recovering the cost by any significant amount. Furthermore, since applicable legislation eliminated any future corporate franchise tax subsequent to 2015, there is absolutely no reason to include the entire 2015 corporate franchise tax liability as the expected level of annual ongoing expense.

NP

Q. IS THE ELECTRIC OPERATIONS PERCENTAGE YOU USED TO CALCULATE YOUR RECOMMENDED ANNUAL CORPORATE FRANCHISE TAX AMOUNT BASED ON CALENDAR YEAR-END 2014 INFORMATION?

A. No. Company did not provide that information in its supplemental response to OPC Data Request No. 1040s1 so I utilized the percentage that the Company utilized to allocate its 2014 corporate franchise tax liability. While utilization of the actual 2015 percentage would yield a more accurate amount, I do not believe it likely that the differences in the 2014 and 2015 percentages will be material, but if the Company provides the 2015 percentage, I will update my recommendation, as appropriate, in true-up testimony.

Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?

A. Yes.