Exhibit No.:	________________
Issue(s):	Class Cost of Service/ Off-System Sales
Witness/Type of Exhibit:	Kind/Surrebuttal
Sponsoring Party:	Public Counsel
Case No.:	ER-2008-0318

SURREBUTTAL TESTIMONY

OF

RYAN KIND

Submitted on Behalf of
the Office of the Public Counsel

UNION ELECTRIC COMPANY D/B/A AMERENUE

Case No. ER-2008-0318

****   ****

Denotes Highly Confidential Information that has been Redacted

November 5, 2008

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BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Union Electric Company d/b/a AmerenUE for Authority to File Tariffs Increasing Rates for Electric Service Provided to Customers in the Company's Missouri Service Area.	)))))	**Case No. ER-2008-0318**

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 surrebuttal testimony.

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

Ryan Kind

Subscribed and sworn to me this 5th day of November 2008.

NOTARY PUBLIC NOTARY SEAL STATE OF MISSOURI

JERENE A. BUCKMAN
My Commission Expires
August 10, 2009
Cole County
Commission #05754036

Jerene A. Buckman

Jerene A. Buckman
Notary Public

My commission expires August 10, 2009.

SURREBUTTAL TESTIMONY

OF

RYAN KIND

UNION ELECTRIC COMPANY

CASE NO. ER-2008-0318

Q. PLEASE STATE YOUR NAME, TITLE, AND BUSINESS ADDRESS.

A. Ryan Kind, Chief Energy Economist, Office of the Public Counsel, P.O. Box 2230, Jefferson City, Missouri 65102.

Q. ARE YOU THE SAME RYAN KIND THAT HAS PREVIOUSLY FILED DIRECT TESTIMONY IN THIS CASE REGARDING REVENUE REQUIREMENT ISSUES AND DIRECT TESTIMONY REGARDING CLASS COST OF SERVICE (CCOS) AND RATE DESIGN ISSUES AND REBUTTAL TESTIMONY REGARDING REVENUE REQUIREMENT AND RATE DESIGN ISSUES?

A. Yes.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of this testimony is (1) to address the rebuttal testimony of various witnesses regarding the Class Cost of Service issue and (2) to respond to the rebuttal testimony remarks of Union Electric Company (UE) witness Shawn Schukar in the areas of off-system sales (OSS) margins on asset-based and non-asset based wholesale power marketing transactions and the imputation of OSS margins to hold customers harmless from the impacts of UE's Taum Sauk disaster. This testimony includes the results of an updated OPC class cost of service study.

I. Class Cost of Service (CCOS) Study

Q. DID UE AND OTHER PARTIES IN THIS CASE PROVIDE COMMENTS ON THE CCOS STUDY THAT YOU PRESENTED IN YOUR DIRECT TESTIMIONY REGARDING CCOS AND RATE DESIGN ISSUES?

A. Yes, CCOS witnesses from UE (William Warwick and Wilbon Cooper), Staff (David Roos), MIEC (Maurice Brubaker), Noranda (Donald Johnstone), and the Commercial Group (Richard Baudino) criticized some of the analytical approaches that OPC used in its CCOS study.

Q. HAVE ANY OF THE PARTIES RAISED ADDITONAL ISSUES ABOUT OPC'S CCOS STUDY BEYOND THOSE THAT WERE RAISED IN THE ABOVE CITED REBUTTAL TESTIONY?

A. Yes. In UE's third series of data requests to OPC that were issued last week, UE raised as additional issue about the financial data that OPC used in its study.

Q. PLEASE EXPLAIN THE ISSUE ABOUT OPC'S CCOS STUDY THAT WAS RAISED BY UE'S RECENT DATA REQUEST.

A. DR No. UE-OPC 21 requests information regarding the manner in which OPC's CCOS study used financial data in the areas of Depreciation Expense, Gross Plant and Depreciation. In DR No. UE-OPC 21, UE implies that OPC has used data from a test year ending June 30, 2006 rather than utilizing data pertinent to the test year for the current rate case.

Q. HAVE YOU REVIEWED THE WORKPAPERS THAT SUPPORT OPC'S CCOS STUDY IN RESPONSE TO ISSUES RAISED IN REBUTTAL TESTIMONY AND TO SEE IF YOU INADVERTENTLY USED FINANCIAL DATA FROM A TEST YEAR ENDING JUNE 30, 2006 RATHER THAN UTILIZING DATA PERTINENT TO THE TEST YEAR FOR THE CURRENT RATE CASE?

A. Yes, I have reviewed the workpapers for OPC's CCOS study and I did not find the old test year data that UE alleged was used in OPC's study in this case.

Q. THERE HAVE BEEN TWO "SETTLEMENT/TECHNICAL" CONFERENCES IN THIS CASE SINCE THE TIME THAT DIRECT CCOS TESTIMONY WAS FILED IN THIS CASE. DID UE RAISE ANY OF THESE CCOS ISSUES DURING THOSE CONFERENCES?

A. No. Mr. Kind was available to discuss his CCOS study and supporting workpapers at the two technical conferences but UE did not make any inquiries about OPC's CCOS study and supporting workpapers at that time.

Q. DO YOU HAVE ANY OTHER REMARKS ABOUT OPC'S CCOS STUDY?

A. Yes. As I was reviewing the workpapers for my CCOS study in response to issues raised in rebuttal testimony and to see if I inadvertently used data from a test year ending June 30, 2006 rather than utilizing data pertinent to the test year for the current rate case, I noticed that the class cost of service allocator (allocator number 5 in OPC's CCOS workpapers) did not pull in all of the cost data that I had intended for it to use in making the CCOS allocator calculator. I then changed the calculations that were made to create this allocator so that it included additional cost input data after becoming aware of the problem with the CCOS allocator. Changes to the cost input data for this calculator had a small impact on the value of this allocator for the classes that were used in my study.

Q. DID THE CHANGE IN THE VALUE OF THIS ALLOCATOR CAUSE A CHANGE IN THE RESULTS OF OPC'S CCOS STUDY?

A. Yes. The changed value for the CCOS allocator caused small changes in the results calculated in OPC's CCOS study when either the time of use (TOU) or 4CP Average and Peak (A & P) production cost allocator is used. The revised results of OPC's study are presented in Attachment A. Tables 1 and 2 in Attachment A contain updated results that replace the results in shown Tables 1 and 2 on page 6 of my direct testimony regarding CCOS and rate design issues.

Q. HAVE THE REVISED RESULTS OF OPC'S CCOS STUDY CAUSED YOU TO CHANGE THE RATE DESIGN RECOMMENDATION THAT YOU MADE ON PAGE 7 OF YOUR DIRECT TESTIMONY?

A. No. Based on the results of OPC's revised CCOS study, I still do not believe any revenue neutral class shifts should be made in this case.

II. Financial Hedging - Net Margins

Q. BEGINNING AT LINE 12 ON PAGE 22 AND CONTINUING THROUGH PAGE 26 OF HIS REBUTTAL TESTIMONY, UE WITNESS SHAWN SCHUKAR ADDRESSED OPC'S RECOMMENDATION ABOUT INCLUDING UE'S FINANCIAL NET MARGINS IN THE CALCULATION OF UE'S TOTAL NET MARGINS IN THE OFF-SYSTEM SALES (OSS) AREA. WHAT IS YOUR RESPONSE TO MR. SCHUKAR'S COMMENTS?

A. Mr. Schukar strenuously objects to including any of the margins that UE reflects in its calculation of Financial Hedging – Net Margins on its Performance Scorecards for its power marketing operations. Mr. Schukar goes on to mischaracterize my testimony by accusing me at line 18 on page 23 of "misrepresenting the budgeted 'value added' number." Mr. Schukar further states that "he is misrepresenting that number because it is not an additional budgeted item over and above the off-system sales that were already budgeted."

Q. DID YOU MAKE STATEMENTS IN YOUR DIRECT TESTIMONY CLAIMING THAT THE FINANCIAL HEDGING – NET MARGINS WERE "AN ADDITIONAL BUDGETED ITEM OVER AND ABOVE THE OFF-SYSTEM SALES THAT WERE ALREADY BUDGETED?"

A. No. It appears that Mr. Schukar should have read my direct testimony on this subject more closely. My direct testimony stated at line 1 on page 9 that:

> if the Commission decided to use the OSS margins on energy sales from either the Staff's or the Company's production cost models as part of the basis for determining UE's current period revenue requirement in this case, then it needs to add additional margins on energy sales to reflect the additional earnings that UE's Asset Management & Trading group (in 2008, this internal UE group began performing the wholesale marketing functions formerly done at Ameren Energy) is making through forward sale wholesale transactions and financial hedging.

Despite Mr. Schukar's allegations to the contrary, my testimony does not recommend adding UE's Financial Hedging – Net Margins to the figures that UE has for its 2008 budget or UE's April 15, 2008 reforecast of its 2008 budget. Instead, the approach that I recommended in my direct testimony was to either use UE's April 15, 2008 reforecast of its 2008 budgeted Gross Margin in the OSS area **or**, if the Commission chose instead to rely on either the Staff or Company fuel model runs for the determination of energy margins from OSS, then it should add the Financial Hedging – Net Margin average amount for 2006 and 2007 to these OSS energy margins. I emphasized this approach again in my direct testimony at line 21 on page 9 where I stated that these 2006 and 2007 figures represent "earnings in the OSS area that will not be reflected in the production cost model calculations performed by Staff and UE."

Q. AT LINE 14 ON PAGE 24 OF HIS TESTIMONY, MR. SCHUKAR STATES "THIS FINANCIAL MARGIN – THE VALUE ADDED BY AM & T REFLECTED ON THE 2006 AND 2007 SCORECARDS MR. KIND REFERENCES...HAS ALREADY BEEN INCLUDED IN MY RECOMMENDED LEVEL OF OFF-SYSTEM SALES." DO YOU AGREE WITH THIS STATEMENT?

A. No. There is at least one component of the Financial Hedging – Net Margins figures for 2006 and 2007 that are not included in Mr. Schukar's "recommended level of off-system sales." Mr. Schukar's responses to OPC DR Nos. 2165 and 2166 (see Attachment B) admitted that the short-term and long-term non-asset based (Spec) trading components of Financial Hedging – Net Margins are not included in his recommended level of off-system sales.

Q. HOW DID YOU DISCOVER THAT UE'S CALCULATION OF FINANCIAL HEDGING – NET MARGINS INCLUDES A NON-ASSET BASED (SPEC) TRADING COMPONENT?

A. UE's responses to OPC DR Nos. 2107 and 2112 (See Attachment C) listed the various components that are included in the Financial Hedging – Net Margins category and both responses included non-asset based (Spec) trading. The response to OPC DR No. 2112 listed the following components that are included in the Financial Hedging – Net Margins category for UE's Asset Management & Trading (AM & T) group:

- Long Term Dynamic
- Long Term Spec
- Short Term Spec
- Short Term Hedge Financial
- Short Term Hedge Physical
- Real Time
- Basis

- Capacity Sales
- Ancillary Sales
- Sioux Coal Blending Savings
- Regulation Optimization
- Real Time CTG Management; and
- CTG Congestion Management

Q. IN YOUR DIRECT TESTIMONY, YOU DISCUSSED THE OSS MARGINS THAT UE MAKES FROM ITS SPECULATIVE (NON-ASSET BASED) TRADING ACTIVITIES ON PAGES 10 AND 11. HAS YOUR RECOMMENDATION FOR REFLECTING THESE MARGINS IN UE'S REVENUE REQUIREMENT CHANGED SINCE THE TIME THAT YOUR DIRECT TESTIMONY WAS FILED?

A. Yes. In my direct testimony, I stated at the top of page 11 that:

> Public Counsel is not making that recommendation [to include margins from non-asset based trading in UE's revenue requirement] at this time and we are still exploring the issue. We do however dispute UE's contention in its response to OPC DR No. 67 that these revenues and expenses should be excluded from consideration in Missouri PSC rate cases because of UE's assertion that there is a FERC regulation that requires "below the line" treatment in FERC proceedings.

After learning more about this issue, and seeing that the margins from these activities are not being included in UE's recommended level of off-system sales despite Mr. Schukar's mistaken assertion at line 14 on page 24 of his rebuttal testimony, I am now recommending that the margins associated with UE's non-asset based trading activities be included in the calculation of OSS margins for UE's revenue requirement in this case. The statement that I made in my direct testimony at line 10 on page 9 about the earnings generated from UE's AM & T group in the Financial Hedging – Net Margins category is also applicable to this component of that category. Beginning at line 10 on page 9 of my direct testimony, I stated:

> These earnings are generated by UE employees using regulated utility facilities that are also supported by revenues from ratepayers.

The questions that I raised at lines 10 – 20 on page 10 of my rebuttal testimony should also be addressed if UE attempts to shield the non-asset based trading portion of its margins in the OSS area from inclusion in its revenue requirement by asserting that this part of its UE operations is not subject to cost of service regulation by the Missouri Commission.

Q. WHAT IS THE AMOUNT OF MARGINS FROM UE'S NON-ASSET BASED TRADING ACTIVITIES THAT OPC RECOMENDS BE INCLUDED IN THE CALCULATION OF OSS MARGINS FOR UE'S REVENUE REQUIREMENT IN THIS CASE?

A. Public Counsel recommends that ** ** be included as the margins from UE's non-asset based trading activities. This figure represents the non-asset based trading margins that UE has actually generated for the year ending September 30, 2008. I calculated this annual amount from the spreadsheet titled "OPC 2178 and 2179.xls" that UE provided in its responses to OPC DR Nos. 2178 and 2179. The response to OPC DR No. 2178 contains this spreadsheet and is attached as Attachment D. Attachment E shows the calculation that I made to sum the amounts of monthly non-asset based trading margins for the year ending September 30, 2008.

Q. IS PUBLIC COUNSEL STILL RECOMMENDING THAT AN AVERAGE OF THE 2006 AND 2007 AMOUNTS FOR THE OTHER COMPONENTS FINANCIAL HEDGING – NET MARGINS CATEGORY BE ADDED TO THE FUEL RUN ESTIMATES OF OSS MARGINS FROM ENERGY SALES?

A. No. While OPC still believes that the margins from the other components of the Financial Hedging – Net Margins category should be reflected in UE's revenue requirement, we believe that additional time and information is required to assess all of the different components to make sure that they would not already be reflected in UE's revenue requirement through fuel run estimates of OSS margins from energy sales. OPC's decision to drop our recommendation with respect to the components of Financial Hedging – Net Margins other than the non-asset based trading component has also been influenced by our decision to recommend that the Commission use actual OSS margin results from the year ending September 30, 2008 in place of OPC's prior direct testimony proposal to use UE's 2008 budget projections for OSS margins.

III. Overall OSS Margins

Q. DID MR. SCHUKAR ADDRESS OPC'S RECOMMENDATION TO USE AN UPDATED UE OSS BUDGET PROJECTION IN HIS REBUTTAL TESTIMONY?

A. Yes beginning at line 8 on page 10 and continuing through page 14, Mr. Schukar addresses the recommendations made by OPC and by MIEC to use UE's budget projections for OSS margins in 2008. In his testimony, Mr. Schukar cites a number of issues that he has with using UE's budget projections including (1) the small mismatch between calendar year 2008 budget information and the historical test year and true up period and (2) the uncertainty of the budgeted values. As I read Mr. Schukar's statement at line 21 on page 10 of his rebuttal testimony, it became clear that he did not fully understand the OPC proposal that he was attempting to criticize. At line 21 he stated:

> I will address the **energy sales** recommendations of Mr. Dauphinais and Mr. Kind, now, and will address Mr. Kind's proposed miscellaneous additions later in my rebuttal testimony. [Emphasis added]

Somehow Mr. Schukar interpreted OPC's proposal to use of UE's overall OSS budget estimate as a proposal to use the 2008 budget estimate solely as a measure of the **energy** sales portion of UE's OSS margins. This is mistaken. My direct testimony contained proposals for adding additional current period margins from capacity sales (see page 8, line 16) and Financial Hedging – Net Margins (see page 9, line 21) **only if** the Commission chose to use results from the Staff or Company's fuel model rather than using the overall budgeted OSS margin figure being recommended by OPC.

Q. PLEASE DESCRIBE OPC'S NEW PROPOSAL FOR CALCULATING THE CURRENT PERIOD OSS MARGINS THAT SHOULD BE REFLECTED IN UE'S REVENUE REQUIREMENT IN THIS CASE.

A. OPC recommends that current period OSS margins be based on the overall level of **actual** margins that UE earns for the year ending September 30, 2008 adjusted for the energy and capacity OSS margins forgone due to the Taum Sauk outage.

Q. HOW DOES OPC RECOMMEND THAT THE CURRENT PERIOD OSS MARGINS BE CALCULATED?

A. OPC recommends calculating these margins in the same manner that UE uses to calculate margins on the performance scorecards for the AM & T group. UE's response to OPC DR No. 2109 (See Attachment F) describes how the AM & T margin is calculated. UE's response to OPC DR No. 2109 states:

> The AM&T Gross Margin is calculated as revenues minus cost from all of the following activities: excess sales of generation after native sales, bilateral net sales, swaps, options, capacity net sales, and non-asset based trading.

Q. WHAT AMOUNTS WOULD NEED TO BE ADDED TO THE AM&T GROSS MARGIN IN ORDER TO MAKE ADJUSTMENTS FOR THE ENERGY AND CAPACITY OSS MARGINS FORGONE DUE TO THE TAUM SAUK OUTAGE?

A. OPC recommends that (1) the difference between the value of OSS energy margins calculated by the Staff or Company fuel runs done with and without Taum Sauk be used for the forgone **energy** margins and (2) the Taum Sauk hold harmless adjustment shown in Table 2 on Attachment C to my direct testimony, ** **, be added to reflect the forgone current period **capacity** sales due to the Taum Sauk outage.

Q. WOULD OPC'S PRIOR PERIOD TAUM SAUK HOLD HARMLESS ADJUSTMENT BE ADDED TO THE CURRENT PERIOD OSS MARGIN CALCULATION THAT YOU HAVE DESCRIBED ABOVE?

A. Yes. OPC's recommendation for a prior period Taum Sauk hold harmless adjustment presented in my direct testimony has not changed.

Q. HAS PUBLIC COUNSEL ATTEMPTED TO OBTAIN THE INFORMATION THAT IS NECESSARY TO CALCULATE THE AM & T GROSS MARGIN?

A. Yes. OPC DR No. 2146 requested this information for the year ending September 30, 2008 and OPC DR No. 2147 requested this same information for the year ending September 30, 2007. UE's response to these DRs (see Attachment G) stated that it had "not performed the requested analysis" for the time period specified in the DRs.

Q. WERE YOU SURPRISED BY UE'S RESPONSES TO OPC DR NOS. 2146 AND 2147?

A. Yes. It's difficult to see how UE could have determined whether or not its power marketing group would be eligible to receive incentive compensation without performing the analysis requested by OPC. For example, UE's response to OPC DR No. 2086 included quarterly performance scorecards for UE's power marketing agent, Ameren Energy for the years 2006 and 2007. These scorecards contained quarterly calculations for Ameren Energy's Gross Margin that presumably were used as the basis for awarding (or not awarding) incentive compensation during those years. OPC will try to resolve this discovery issue with the Company so that we can provide the Commission with an actual figure (not adjusted for the Taum Sauk outage) for UE's OSS margins for the year ending the year ending September 30, 2008.

Q. DO YOU HAVE ANY OTHER INFORMATION ABOUT THE METHOD THAT UE USES TO CALCULATE THE GROSS MARGIN FIGURES THAT ARE PART OF THE PERFORMANCE SCORECARDS FOR AMEREN ENERGY AND THE NEW AM & T DIVISION OF UE?

A. Yes. UE's responses to OPC DR Nos. 2106 and 2111 (See Attachment H) show the basic framework that UE uses to perform the calculations of the Gross Margin figures.

Q. DOES OPC HAVE A "PLACEHOLDER" RECOMMENDATION FOR OSS MARGINS WHILE IT IS WAITING TO RECEIVE INFORMATION FROM UE IN RESPONSE TO OPC DRS NOS. 2146 AND 2147?

A. I am reluctant to recommend a "placeholder" since there is no comparable calculation that takes a comprehensive look at UE's OSS margins. A "placeholder" would need to take an alternative approach to adding together all of the components in an attempt to gauge OSS margins in a manner as comprehensive as the Gross Margin calculations requested in OPC DRs Nos. 2146 and 2147. The framework for performing these calculations that is shown in UE's response to OPC DR No. 2111 could be used to replicate the calculations that UE performs to determine the comprehensive assessment of OSS margins that is included in the "Gross Margin" figure on AM & T's performance scorecard.

Q. PLEASE DISCUSS SOME OF THE MAJOR COMPONENTS THAT ARE SHOWN IN THE FRAMEWORK FOR CALCULATIONS PROVIDED IN UE'S RESONSE TO OPC DR NO. 2111.

A. First, UE's actual OSS revenues and costs associated with its sales of energy, capacity, and ancillary services would need to be determined. UE's third supplemental response to Staff DR No. 0242 contains this information for the year ending September 30, 2008. This response indicates that UE's actual OSS margins for the year ending September 30, 2008 was ** **. This figure appears to include actual margins on capacity sales and ancillary services but does not include the additional energy and capacity sales margins that would have been possible if Taum Sauk was still in service. Public Counsel also does not expect this figure to include many of the other components of OSS margins that are included in the category that UE defines as Financial Hedging – Net Margins (e.g. non-asset based trading margins) so some of these components would also probably need to be added to the ** ** figure to arrive at a total that reflects all of the OSS margins for the year ending September 30, 2008.

Q. WHY HAS OPC CHOSEN TO CHANGE ITS PROPOSAL FOR OSS MARGINS AT THIS TIME?

A. This change was made in response to my review of Mr. Schukar's rebuttal testimony regarding the use of budgeted OSS margin data and a review of the Commission's decision about the OSS margin issue in Empire's most recent rate case (Case No. ER-2008-0093). In the recent Empire case, the Commission agreed with Public Counsel that the level of OSS margins earned in the most recent 12 month period (the update period went through February 29, 2008) was the "best indicator of the margins it will likely be able to earn in the coming years" (July 30, 2008 Report and Order in Case No. ER-2008-0093, pages 56 and 57).

Like Empire, UE has experienced a number of recent changes that impact the level of OSS margins it achieves. A couple of those major recent changes include the termination of the joint dispatch agreement (JDA) less than two years ago and the creation of the new AM & T group, at the start of 2008. At line 19 on page 22 of his rebuttal testimony, Mr. Schukar states that this new division of UE is "charged with maximizing energy and capacity sales from UE's generating units." Many of the other recent changes that have impacted UE's ability to earn OSS margins were discussed at pages 4 – 6 of my direct testimony in UE's last rate case, Case No. ER-2007-0002. In that direct testimony, I recommended the use of an OSS tracker since UE's recent OSS results would not have been indicative of the level of margins that it was likely to earn in future years. Now that we have a couple of years of experience subsequent to the occurrence of many of the changes that impact UE OSS margins, I am recommending that we reflect the results of that recent experience in UE's revenue requirement.

IV. Imputation of Taum Sauk Hold Harmless Capacity Sales

Q. WHAT IS YOUR RESPONSE TO THE TESTIMONY OF UE WITNESS SHAWN SCHUKAR REGARDING THE CAPACITY SALES ADJUSTMENTS THAT OPC HAS PROPOSED TO HOLD CUSTOMERS HARMLESS FROM THE TAUM SAUK DISASTER?

A. Mr. Schukar addresses OPC's **current** period hold harmless adjustment recommendation at pages 20 – 22 of his rebuttal testimony and he addresses OPC's **prior** period hold harmless adjustment recommendation on page 27. He criticizes both of OPC's recommendations based on his argument that since the Company has been unable to sell all of its excess monthly capacity, it does not make sense to assume that UE could make the additional annual sales of capacity that OPC uses as the basis for its current and prior period capacity revenue imputation recommendations. Specifically, at lines 6 through 10 on page 21, Mr. Schukar states:

> if AmerenUE could not even sell all of its available capacity for the entire year (i.e., from generating units that were in fact in operation), it is obviously unreasonable to assume that the Company could sell additional capacity if the Taum Sauk Plant had been available.

With regard to OPC's recommended prior period adjustment, Mr. Schukar states at lines 4 through 9 on page 27 that::

> At the time AmerenUE made the final calculation of rates on January 1, 2007, AmerenUE had not sold all of the capacity that was available for sale in any month. Thus, had Taum Sauk been available at the time of the last rate case, there would not have been any additional capacity sales made, and the rates set in the last rate case would have been exactly the same as the rates that were actually set in that case.

Q. WHAT IS YOUR RESPONSE TO THE LOGIC APPLIED BY MR. SCHUKAR IN THE TWO PASSAGES THAT YOU QUOTED IN YOUR PRECEDING ANSWER?

A. Mr. Schukar has ignored a couple of important point in the logic that he used to reach the conclusions that UE would not be able to sell additional annual capacity if the Company's 440 MW Taum Sauk facility was still in service. First, Mr. Schukar ignores the fact that having the Taum Sauk unit in service would mean that the Company would have additional capacity to sell during the summer months of June through September when this capacity is most valuable. Second, Mr. Schukar ignores the fact that having the Taum Sauk unit in service would mean that the Company would have additional capacity to package into calendar strip products that provide capacity over a series of months like an annual product or the series of summer months when capacity is most valuable. In addition, Mr. Schukar's argument is premised upon the assumption that the inability to sell all available excess capacity during the spring and fall shoulder months is an indication that UE would not be able to sell more capacity when demands are the highest in the summer and winter months.

Q. CAN YOU PROVIDE AN EXAMPLE OF ANOTHER PRODUCT OR SERVICE THAT INCREASES IN VALUE WHEN IT IS AVAILABLE ON A CALENDAR STRIP BASIS AND DURING THE MONTHS WHEN IT IS MOST VALUABLE?

A. Yes. I will use the example of owning two beach front rental houses in Maine to demonstrate this. Assume that one is available to rent out year round for all twelve months and the other house is available in all months except for July and August. I would expect the house that is available in all 12 months, including the most desirable months of July and August to be much easier to rent. I would not assume that if I had more rental houses that are available in all months, I might have difficulty renting some of them just because I had experienced difficulty renting my house that was available in all months except for July and August.

Here is another example that is relevant to Mr. Schukar's arguments. Again assume that I have a couple of rental houses and that both houses are rented for the entire year except for the months of November and April. I would not assume that if I had more rental houses that are available in all months, I might have difficulty finding someone to rent them during most months of the year just because I had experienced difficulty renting my other houses in the months of November and April.

Q. WHEN YOU LOOK AT THE BAR GRAPH THAT APPEARS ON PAGE 21 OF MR. SCHUKAR'S TESTIMONY, DOES IT APPEAR THAT THE LACK OF ADDITIONAL CAPACITY TO SELL IN JULY AND AUGUST IS LIMITING THE CALENDAR STRIP SALES THAT COULD OTHERWISE BE SOLD ON AN ANNUAL OR SEMI-ANNUAL BASIS?

A. Yes. The level of calendar strip sales that UE was able to make in months preceding and following July and August appears to be limited by the amount of capacity that UE has available in July and August. I believe that if Taum Sauk were still in service and its capacity was available for sales in July and August of 2006 - 2009, it would enable additional sales of calendar strip capacity products that included these months and other adjoining months.

Q. ARE THERE OTHER ISSUES RELATED OPC'S PRIOR PERIOD TAUM SAUK HOLD HARMLESS ADJUSTMENT THAT YOU WOULD LIKE TO ADDRESS?

A. Yes. As I mentioned earlier in this testimony, Mr. Schukar's argument that the Commission should not approve OPC's adjustment was that as of January 1, 2007 (the end of the UE update period in Case No. ER-2007-0002) "AmerenUE had not sold all of the capacity that was available for sale in any month." While the above discussion of the attractiveness of calendar strip products goes against the logic that Mr. Schukar relies on to assume that it would have made no additional capacity sales even if Taum Sauk was still available, there are some additional factors that limited UE's sale of additional capacity during 2006 and 2007. These additional factors include: (1) UE's decision not to participate in the September 2006 Illinois Auction where it could have sold products that combined capacity and energy (like the sales made by its unregulated affiliate Ameren Energy Marketing (AEM)), (2) the limited authority that UE's marketing agent, Ameren Energy, had for selling long term energy and capacity products, (3) the limited experience and counter-party recognition that Ameren Energy had at the time, (4) possible limitations on the effectiveness of Ameren Energy's marketing efforts during 2006 due to affiliate conflict of interest issues.

Q. PLEASE EXPLAIN THE FIRST ISSUE THAT YOU IDENTIFIED ABOVE REGARDING THE ILLINOIS AUCTION.

A. It's unclear why Ameren Energy began taking steps to participate in the Illinois auction but then chose not to do so. OPC still has a number of overdue outstanding data requests related to the Illinois Auction so we may need to supplement our testimony in this area. UE's response to OPC DR No.2194 (see Attachment I) identified the Ameren personnel that made the decision for UE not to participate in the Illinois auction. However, the information provided in UE's DR response appears to be inconsistent with information that UE provided in response to staff interrogatory request No. 15 in Case No. ER-2008-0015 (see Attachment J).

OPC has a concern that since Andy Serri was the head of both AEM and Ameren Energy, he may have had an incentive to limit the participation in the Illinois Auction so that AEM could try and make sales for the maximum amount of tranches available to Ameren affiliates. AEM was ultimately successful in submitting winning bids for 46 of the maximum 50 tranches that Ameren affiliates could obtain (see page 118 of the December 6, 2006 NERA report to the Illinois Commerce Commission (ICC) available at http://www.illinois-auction.com/resources/ruling/Auction_Manager_Public_Post-Auction_Report_Dec_6_2006.pdf). Obviously, if Ameren Energy had been successful in submitting winning bids for more than 4 tranches, it would have limited the number of winning bids that Ameren affiliates could obtain under the Illinois Auction association rules.

Q. WHY DO YOU BELIEVE THERE MAY HAVE BEEN AFFILIATE CONFLICT OF INTEREST ISSUES DURING 2006?

A. The email that I have attached as Attachment K shows that **

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Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?

A. Yes.