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Case No.:

Plant Accounting/
Rate Case Expense/
Robertson/Direct
Public Counsel
ER-2012-0166

DIRECT TESTIMONY

OF

TED ROBERTSON

Submitted on Behalf of the Office of the Public Counsel

**UNION ELECTRIC COMPANY D/B/A
AMEREN MISSOURI**

CASE NO. ER-2012-0166

Denotes Highly Confidential Information that has been redacted

July 6, 2012

NP

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of Union Electric Company)
d/b/a Ameren Missouri's Tariffs to Increase)
Its Revenues for Electric Service)

File No. ER-2012-0166

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 a Chief Public Utility Accountant for the Office of the Public Counsel.
2. Attached hereto and made a part hereof for all purposes is my direct 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 July 2012.



JERENE A. BUCKMAN
My Commission Expires
August 23, 2013
Cole County
Commission #09754037



Jerene A. Buckman
Notary Public

My Commission expires August, 2013.

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**DIRECT TESTIMONY
OF
TED ROBERTSON**

**UNION ELECTRIC COMPANY
d/b/a AMEREN MISSOURI
CASE NO. ER-2012-0166**

I. INTRODUCTION

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. Ted Robertson, PO Box 2230, Jefferson City, Missouri 65102-2230.

Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?

A. I am employed by the Missouri Office of the Public Counsel (OPC or Public Counsel) as the Chief Public Utility Accountant.

Q. WHAT IS THE NATURE OF YOUR CURRENT DUTIES AT THE OPC?

A. My duties include all activities associated with the supervision and operation of the regulatory accounting section of the OPC. I am also responsible for performing audits and examinations of the books and records of public utilities operating within the state of Missouri.

Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND OTHER QUALIFICATIONS.

1 A. I graduated in May, 1988, from Missouri State University in Springfield, Missouri, with a
2 Bachelor of Science Degree in Accounting. In November of 1988, I passed the Uniform
3 Certified Public Accountant Examination, and I obtained Certified Public Accountant
4 (CPA) certification from the state of Missouri in 1989. My CPA license number is
5 2004012798.

6
7 Q. HAVE YOU RECEIVED SPECIALIZED TRAINING RELATED TO PUBLIC
8 UTILITY ACCOUNTING?

9 A. Yes. In addition to being employed by the Missouri Office of the Public Counsel since
10 July 1990, I have attended the NARUC Annual Regulatory Studies Program at Michigan
11 State University, and I have also participated in numerous training seminars relating to
12 this specific area of accounting study.

13
14 Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE MISSOURI PUBLIC
15 SERVICE COMMISSION (COMMISSION OR MPSC)?

16 A. Yes, I have testified on numerous issues before this Commission. Please refer to
17 Schedule TJR-1, attached to this testimony, for a listing of cases in which I have
18 submitted testimony.

19
20 **II. PURPOSE OF TESTIMONY**

21 Q. WHAT IS THE PURPOSE OF YOUR DIRECT TESTIMONY?

1 A. The purpose of my testimony is to address the Public Counsel's recommendations on
2 ratemaking for costs associated with the request by Ameren Missouri (AmerenMO,
3 Ameren or Company) to adopt a new regulatory mechanism described as plant-in-service
4 accounting in the direct testimony of Company witnesses Mr. Warren L. Baxter and Ms.
5 Lynn M. Barnes, and rate case expense.
6

7 **III. PLANT-IN-SERVICE ACCOUNTING**

8 Q. WHAT IS THE ISSUE?

9 A. Company is requesting that the Commission authorize implementation of a new
10 regulatory mechanism that it identifies as "Plant-In-Service Accounting." Beginning on
11 page 3, line 19, of Ms. Barnes's direct testimony she describes the requested new
12 regulatory mechanism as,
13

14 ...for accounting authority to accrue for lost return and to defer
15 depreciation expense on nonrevenue-producing assets from the time those
16 assets actually begin serving customers until they can be reflected in rate
17 base in a later rate case.
18
19

20 Furthermore, beginning on page 5, line 14, she adds,
21

22 With respect to Plant-in-Service Accounting, the existing regulatory
23 framework reflects an inherent (and inherently unfair) disincentive for the
24 Company to invest in the system due to the regulatory lag caused by the
25 complete loss of depreciation expense and return on these investments

1 during the period between when these assets are placed in service and
2 when they ultimately are included in rate base and reflected in rates in a
3 future rate case. To mitigate this disincentive, the Company is requesting
4 the ability to accrue the lost return on its net investment and to defer
5 depreciation expense during this interim period.
6
7

8 Q. HOW DOES MS. BARNES DEFINE PLANT-IN-SERVICE ACCOUNTING?

9 A. Beginning on page 16, line 14, of her direct testimony, she states,
10

11 In this context, the term Plant-in-Service Accounting refers to regulatory
12 treatment which would allow for the accrual of return and the deferral of
13 depreciation expense during the period between when nonrevenue-producing
14 assets are placed in service and the point when they become part of rate base
15 following a rate case, offset by retirements and changes to the accumulated
16 depreciation reserve. This practice is similar to what has sometimes been referred
17 to as construction accounting.
18
19

20 Q. DOES THE COMPANY PROVIDE THE REASON WHY IT IS SEEKING SUCH A
21 RADICAL DEPARTURE FROM MISSOURI'S TRADITIONAL REGULATORY
22 TREATMENT OF ACCOUNTING FOR PLANT IN RATE CASES?

23 A. Yes. The Company appears to be concerned about the effect of regulatory lag on plant
24 placed in service between rate cases. On page 19, lines 12 through 18, of Mr. Baxter's
25 direct testimony, he states,
26

27 Not only does the regulatory framework significantly delay the cash flows to our
28 Company for these projects, but the significant depreciation expense and cost of
29 capital related to these assets that are incurred between rate cases are permanently

1 lost to the Company under the current regulatory framework. The bottom line is
2 that regulatory lag is a misnomer in that recovery of costs incurred to provide
3 services which are not immediately reflected in rates is not merely delayed, but
4 rather, these costs are lost forever.
5
6

7 Q. DOES PUBLIC COUNSEL AGREE WITH MS. BARNES'S AND MR. BAXTER'S
8 ASSERTION THAT RECOVERY OF COSTS INCURRED TO PROVIDE SERVICES
9 WHICH ARE NOT IMMEDIATELY REFLECTED IN RATES IS NOT MERELY
10 DELAYED, BUT RATHER, THESE COSTS ARE LOST FOREVER?

11 A. No. Regulatory lag can also benefit a utility. Changes in revenue, expense and rate base
12 items that may reduce a utility's revenue requirement are also not reflected in rates until a
13 subsequent rate case. For example, Ms. Barnes and Mr. Baxter both conveniently leave
14 out of their testimony that a utility will benefit from regulatory lag if rates continue to
15 reflect a return on and depreciation expense for plant that has been fully depreciated prior
16 to a change in rates. The timing of rate cases, in effect, can either cause a detriment or a
17 benefit to both shareholders and ratepayers depending on the individual aspects of the
18 case at hand and the costs at issue. The testimony of the Ameren witnesses only reflects
19 the downside potential of regulatory lag to the Company and ignores the potential upside
20 of regulatory lag.
21

22 Further, the Company seeks to isolate one component (plant) in its cost of service
23 calculation, while ignoring other components within the same cost of service calculation.

1 Revenue could increase, operating expense could decline and other rate base items in
2 addition to individual components within plant-in-service and accumulated depreciation
3 could decline. These items are also exposed to regulatory lag. The premise behind
4 observing a test year for audit purposes (and true-up if needed) is to match revenue and
5 cost of service during a specific period to ensure calculation of a revenue requirement
6 that is fair to both the Company and to ratepayers.

7
8 Q. WHAT IS THE ULTIMATE PURPOSE OF THE COMPANY'S REQUEST FOR THE
9 NEW REGULATORY MECHANISM?

10 A. Commission authorization of the Company's request would insulate its shareholders from the
11 risks associated with regulatory lag that may occur if plant projects are completed and placed
12 in service before the operation law date of a general rate increase case.

13
14 Q. PLEASE EXPLAIN THE CONCEPT OF REGULATORY LAG.

15 A. This concept is based on a difference in timing of a decision by management and the
16 Commission's recognition of that decision and its effect on the rate base rate of return
17 relationship in the determination of a utility's revenue requirement. Management decisions
18 that reduce or increase the cost of service without changing rates result in a change in the rate
19 base rate of return relationship. This change either increases or decreases the profitability of
20 the Company in the short-run until such time as the Commission reestablishes rates to
21 properly match the new level of service cost. Companies are allowed to retain cost savings

1 (i.e., excess profits during the lag period between rate cases) and are forced to absorb cost
2 increases. When faced with escalating costs regulatory lag places pressure on management to
3 minimize the change in the relationship because it cannot be recognized in a rate increase
4 until the Commission approves such in a general rate proceeding.

5
6 Q. HAS THIS COMMISSION RULED THAT IT IS NOT REASONABLE TO PROVIDE
7 SUCH PROTECTION TO SHAREHOLDERS?

8 A. Yes, it has. In Missouri Public Service Co., Case Nos. EO-91-358 & EO-91-360, the
9 Commission stated,

10
11 Lessening the effect of regulatory lag by deferring costs is beneficial to a
12 company but not particularly beneficial to ratepayers. Companies do not
13 propose to defer profits to subsequent rate cases to lessen the effects of
14 regulatory lag, but insist it is a benefit to defer costs. Regulatory lag is a part
15 of the regulatory process and can be a benefit as well as a detriment.
16 Lessening regulatory lag by deferring costs is not a reasonable goal unless
17 the costs are associated with an extraordinary event.

18
19 Maintaining the financial integrity of a utility is also a reasonable goal. The
20 deferral of costs to maintain current financial integrity, though, is of
21 questionable benefit. If a utility's financial integrity is threatened by high
22 costs so that its ability to provide service is threatened, then it should seek
23 interim rate relief. If maintaining financial integrity means sustaining a
24 specific return on equity, this is not the purpose of regulation. It is not
25 reasonable to defer costs to insulate shareholders from any risks. 1 Mo.
26 P.S.C. 3d 200, 207 (1991).

1 Q. IS IT PUBLIC COUNSEL'S RECOMMENDATION THAT THE COMMISSION
2 REJECT THE COMPANY'S REQUEST FOR THE NEW REGULATORY
3 MECHANISM FOR PLANT?

4 A. Yes.
5
6

7 **IV. RATE CASE EXPENSE**

8 Q. WHAT IS THE ISSUE?

9 A. The issue is determining the proper amount of rate case expense the Company should be
10 authorized to include in its rates pursuant to changes in rates effective at the conclusion of
11 the current case.
12

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

14 A. Public Counsel believes the amount of rate case expense included in the development of the
15 Company's rates should only include a normalized annual level of charges that directly
16 benefit ratepayers. Since shareholders benefit from the activities from which rate case costs
17 are derived, as much as, if not more than ratepayers, shareholders should also bear some of
18 the burden of rate case expense.
19

20 Q WHAT IS THE TEST YEAR AMOUNT OF RATE CASE EXPENSE THE COMPANY
21 INCURRED TO PROCESS THE INSTANT CASE?

1 A. For the twelve months ended September 30, 2011, the Commission ordered test year, the
2 balance booked is \$0 (source: MPSC Staff Data Request No. 37).

3
4 Q TO DATE, WHAT IS THE AMOUNT OF RATE CASE EXPENSE THE COMPANY
5 INCURRED TO PROCESS THE INSTANT CASE?

6 A. In response to MPSC Data Request No. 173, the Company indicated it incurred only a
7 minimal amount of rate case expense through January, 2012.

8
9 Q. DOES PUBLIC COUNSEL EXPECT THE COMPANY WILL INCUR ADDITIONAL
10 RATE CASE EXPENSE SUBSEQUENT TO JANUARY 2012?

11 A. Yes. OPC expects the Company will update its responses to Staff Data Request No. 173 as
12 information becomes available at least through July 31, 2012, the authorized true-up date in
13 the instant case. Public Counsel will continue to monitor expenses throughout the
14 proceedings and update information accordingly.

15
16 Q. WHAT AMOUNT OF RATE CASE EXPENSE IS THE COMPANY REQUESTING?

17 A. The direct testimony of Company witness, Mr. Gary S. Weiss, page 28, lines 7-8, states that
18 the estimated expenses applicable to this rate case are \$1,903,000.

1 Q. DOES THE PUBLIC COUNSEL BELIEVE THAT THE ESTIMATED COSTS
2 IDENTIFIED BY THE COMPANY REPRESENT A REASONABLE LEVEL OF RATE
3 CASE EXPENSE FOR INCLUSION IN THE DEVELOPMENT OF FUTURE RATES?

4 A. No.

5
6 Q. WHAT COSTS ASSOCIATED WITH A GENERAL RATE INCREASE CASE SHOULD
7 BE RECOVERED FROM RATEPAYERS?

8 A. Costs associated with a general rate increase case should first be analyzed to determine if
9 they are prudent, reasonable and necessary. Those that are determined not prudent,
10 reasonable or necessary should not be reimbursed by ratepayers. For example, costs
11 incurred by Company personnel, outside legal and outside consultants that are determined
12 imprudent, unreasonable or unnecessary should be automatically disallowed. In addition, if
13 the utility has employees capable of developing and supporting the general rate increase
14 case, the cost of hiring higher-priced outside legal counsel or consultants should not be
15 allowed either. Once the prudent, reasonable and necessary costs of the specific case are
16 determined, the balance can then be included in the development of future rates by
17 normalizing the cost commensurate with the Company's general rate case history.

18
19 Q. HOW DO ACTIVITIES ASSOCIATED WITH A GENERAL RATE INCREASE CASE
20 BENEFIT SHAREHOLDERS AND RATEPAYERS?

1 A. Customers (ratepayers) have an interest in ensuring that they receive service that is safe
2 and adequate, at rates that are just and reasonable. The Commission's decision in a rate
3 case should: 1) establish rates that are just and reasonable; 2) allow the utility enough
4 revenue to continue to provide safe and adequate service; and 3) allow the utility the
5 opportunity to earn a reasonable return on its investment. Shareholders stand to gain from
6 the opportunity to earn increases in the Company's revenue requirement authorized by the
7 Commission in the form of stock price appreciation and increased dividends.

8
9 Q. IS PUBLIC COUNSEL TAKING A NARROW VIEW THAT RATE CASES
10 RESULTING IN RATE INCREASES ONLY BENEFIT THE UTILITY'S
11 SHAREHOLDERS BY INCREASING EARNINGS?

12 A. No. The need for a base rate filing is initiated by the utility and driven by its desire to
13 obtain an increase in rates, but an authorized revenue requirement merely gives the utility
14 an opportunity to earn a return on its investments. Other benefits that result include the
15 ability to provide safe, adequate and proper utility service.

16
17 Q. IS PUBLIC COUNSEL SUGGESTING THAT RATE CASE EXPENSE BE
18 DISALLOWED IN ENTIRETY?

19 A. No. Since rate proceedings are part of the normal cost of business for a regulated utility in
20 determining just and reasonable rates, it is widely accepted that rate case expenses are one
21 aspect of a utility's operating costs and are recoverable in rates.

1
2 Q. HAVE YOU REVIEWED THE COST DETAIL PROVIDED BY THE COMPANY FOR
3 ESTIMATED RATE CASE EXPENSE?

4 A. Yes. The rate case expense workpaper filed in support of Mr. Gary Weiss's direct testimony
5 shows the breakdown of estimated rate case expense \$1.903M as,

6
7 **

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21
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23 **

24
25 Total Rate Case Expense \$1,903,000

26
27 Note: Concentric consultants Messrs. John J. Reed, Michael J. Adams and Robert B.
28 Hevert all filed direct testimony in this case, but Mr. Reed's name is not mentioned in the
29 response. However, according to the Company's response to OPC DR No. 1017, the
30 ** **.

1 Q. WERE REQUESTS FOR PROPOSALS UTILIZED TO OBTAIN THE SERVICES OF
2 THE AFOREMENTIONED OUTSIDE LEGAL COUNSEL AND CONSULTANTS?

3 A. No. Company's response to MPSC Staff Data Request No. 37 states ** **

4
5 Q. DOES THE COMPANY'S FAILURE TO COMPETITELY BID THE COST FOR THE
6 SERVICES PROVIDED BY THE OUTSIDE LEGAL COUNSEL AND
7 CONSULTANTS INDICATE THAT COMPANY MANAGEMENT WAS NOT
8 CONCERNED WITH ACHIEVING THE SERVICES PROVIDED AT THE LOWEST
9 POSSIBLE COST?

10 A. Yes. The lack of competitive bidding for the services provided shows that the Company
11 was not concerned with obtaining the services desired at the lowest possible cost. It also
12 prevented the Company from having a benchmark which could have been utilized to
13 compare what the cost would have been had its own employees performed the work.

14
15 Q. WHY WERE THE OUTSIDE ATTORNEYS AND CONSULTANTS HIRED FOR
16 THIS CASE?

17 A. Company's response to OPC Data Request No. 1010 states the following,

18
19 Smith Lewis, LLP and Brydon, Swearingen & England P.C. provide legal
20 services in connection with this rate case and other regulatory matters.
21 Due to the numerous other regulatory matters that the Ameren regulatory
22 attorneys are required to deal with daily it is impossible for them to handle

1 the Ameren Missouri rate case effectively without the assistance of
2 outside attorneys.

3
4 Ameren Missouri does not have personnel with the expertise and
5 extensive knowledge to effectively deal with the issues addressed by Mr.
6 Hevert, Mr. Adams and Mr. Reed. Please refer to their direct testimony
7 filed in this case for their qualifications and the issues they are providing
8 expert testimony on for Ameren Missouri.
9
10

11 Q. SHOULD THE COMMISSION BE CONCERNED ABOUT THE LARGE
12 EXPENDITURES COMPANY EXPECTS TO INCUR FOR PROCESSING THE
13 CURRENT RATE CASE?

14 A. Yes. The Commission should be concerned with the rising level of rate case expense.
15 The outside legal representation and consultants Company hired are extremely costly and
16 represent the majority of the costs of the rate case expense estimate; however, all of these
17 costs are properly within management's control. As a result, rate case expense, like any
18 other major expenditure, is an area where the Commission should require utilities to
19 contain costs if at all possible.
20

21 Q. DOES PUBLIC COUNSEL BELIEVE THAT OUTSIDE LEGAL AND CONSULTANT
22 COSTS HAVE BECOME EXCESSIVE AND THAT THE COMPANY HAS MINIMAL
23 INCENTIVE TO CONTROL THESE COSTS?

24 A. Yes. The use of costly outsiders to process and defend the rate increase request is
25 particularly disconcerting when one considers the Company is a large utility with many

1 educated employees. The response to MPSC Data Request No. 59, indicated that as of
2 September 30, 2011 Ameren Missouri employed 4,321 regular full-time employees,
3 Ameren services employed 1,308 regular full-time employees and Ameren Corporation
4 as whole employed 9,130 regular full-time employees. OPC believes it reasonable to
5 assume that since many of these same employees hold degrees from colleges and
6 universities which likely match or exceed the educational requirements needed to prepare
7 and defend a general rate increase case - not to mention their combined work experience
8 and acquired skills. These employees should be able to perform most, if not all, of the
9 work required. Furthermore, Companies should be made aware that a "pass-through" of
10 rate case expense is not automatic and the Commission should certainly review the
11 expenses for prudence, reasonableness and necessity to ensure that they are not improper
12 or excessive. Given the increasingly high cost associated with processing a rate case, the
13 management of rate case expense has become even more relevant in today's economic
14 climate.

15
16 Q. IS IT YOUR BELIEF THAT SPECIFIC RATE CASE COSTS ARE NOT BEING
17 PRUDENTLY INCURRED BY THE COMPANY?

18 A. Yes. OPC believes that the Company has not attempted to appropriately control the costs
19 it has incurred for the current case. Company's needless use of outside legal and
20 consultant services indicates such.

1 Q. DOES COMPANY, ITS PARENT OR AFFILIATES EMPLOY ANY LICENSED
2 ATTORNEYS?

3 A. Yes. Company's response to OPC Data Request No. 1008 and 1008s1 identified 15
4 licensed attorneys employed by Ameren. Of the 15 identified, 8 possess current
5 regulatory practice experience. Those with regulatory experience include, William B.
6 Bobnar, Thomas M. Byrne, Edward C. Fitzhenry, David B. Hennen, Susan B. Knowles,
7 Joseph H. Raybuck, Wendy K. Tatro and Matt R. Tomc.

8
9 Q. DOES COMPANY, ITS PARENT OR AFFILIATES EMPLOY ANYONE WITH COST
10 OF CAPITAL (ROE, CAPITAL STRUCTURE, DEBT COST, ETC.) EXPERIENCE?

11 A. Yes. Company's response to OPC Data Request No. 1009 lists 4 employees with such
12 experience. They include, Jerre E. Birdsong, Vice President & Treasurer, Darrel E.
13 Hughes, Supervisor Valuation and Cost of Capital - Corporate Finance, Ryan J. Martin,
14 Assistant Treasurer & Manager - Corporate Finance and Michael G. O'Bryan, Senior
15 Capital Markets Specialist - Corporate Finance.

16
17 Q. DID PUBLIC COUNSEL ATTEMPT TO ASCERTAIN THE LEVEL OF
18 EXPERIENCE THAT MESSRS. BIRDSONG, O'BRYAN AND MARTIN HAVE
19 REGARDING COST OF CAPITAL ISSUES?

1 A. Yes. OPC Data Request No. 1009 requested the Company to identify proceedings in
2 which they testified along with a request for copies of all testimony they presented in
3 those proceedings; results are summarized as,

- 4
- 5 1. Mr. Birdsong has submitted testimony to the MPSC in multiple electric cases,
6 steam heating cases, a gas case and a water case. He has also submitted testimony
7 on several electrical cases to the Federal Energy Regulatory Commission (FERC),
8 the Iowa Utilities Board and the Illinois Commerce Commission (ICC). In
9 addition, he has submitted testimony on two gas cases to the ICC.
 - 10 2. Mr. Hughes submitted testimony to the ICC in an electric case.
 - 11 3. Mr. Martin has submitted testimony to the ICC and to the MPSC in multiple
12 electric cases, including submission of direct testimony in this case.
 - 13 4. Mr. O'Bryan has submitted testimony to the MPSC and the ICC in both Electric
14 and gas Cases on multiple occasions, including testimony in Case. No. ER-2011-
15 0028, the most recent Ameren rate case.
- 16
17
18
19
20

21 It appears, to me, that Ameren already employs sufficient experienced and credentialed
22 employees capable of preparing a case for cost of capital issues, without the need to
23 expend the estimated ** ** to Concentric for Mr. Hevert's services.

24

25 Q. DID OPC REQUEST ADDITIONAL INFORMATION REGARDING AMEREN
26 MISSOURI EMPLOYEES?

27 A. Yes. OPC Data Request No. 1005 requested a listing of current Ameren Missouri
28 employees with university/college degrees. The request included the employee's name,

1 current job title, years employed with Company, degree held and major field of study
2 (e.g., Bachelors of Accounting, Masters of Engineering, PHD Education, etc.), name of
3 university/college from which degree was earned, and a listing of any advanced
4 profession designations held (e.g., CPA, etc.).
5

6 Q. DID THE COMPANY PROVIDE THE INFORMATION OPC REQUESTED?

7 A. Yes.
8

9 Q. WHAT DID YOUR ANALYSIS OF THE RESPONSE TO OPC DATA REQUEST NO.
10 1005 REVEAL?

11 A. The Company's response shows that AmerenMO employs literally hundreds of highly
12 educated employees holding a Bachelor degree or higher - many of which are in
13 disciplines which would likely be relevant to the preparation and defense of the
14 Company's current rate case.
15

16 Q. DID OPC ALSO REQUEST EMPLOYEE INFORMATION REGARDING AMEREN
17 CORPORATION AND ITS OTHER AFFILIATES?

18 A. Yes. OPC Data Request No. 1006 requested a listing of current Ameren Corporation and
19 affiliate employees (e.g., Ameren Services) with university/college degrees that allocate
20 time/costs to Ameren Missouri. The request included the employee's name, current job
21 title, years employed with Ameren Corporation/affiliate, degree held and major field of

1 study (e.g., Bachelors of Accounting, Masters of Engineering, PHD Education, etc.),
2 name of university/college from which degree was earned, and a listing of any advanced
3 profession designations held (e.g., CPA, etc.).
4

5 Q. DID THE COMPANY PROVIDE THE INFORMATION OPC REQUESTED?

6 A. Yes.
7

8 Q. WHAT DID YOUR ANALYSIS OF THE RESPONSE TO OPC DATA REQUEST NO.
9 1006 REVEAL?

10 A. The response was essentially the same as that provided in Company's response to OPC
11 DR No. 1005. It shows that Ameren Corporation, and its affiliates, employ hundreds of
12 highly educated employees holding a Bachelor degree or higher in many different areas
13 relevant to the rate case disciplines.
14

15 Q. IS PUBLIC COUNSEL OF THE OPINION THAT THE COMPANY COULD HAVE
16 DEVELOPED AND PROCESSED THE CURRENT CASE WITH ITS OWN AND/OR
17 AFFILIATES EMPLOYEES WITHOUT THE NEED TO INCUR THE COSTS OF
18 OUTSIDE ATTORNEYS AND CONSULTANTS?

19 A. Yes. Company and/or its affiliates have among their employees a large number of
20 accountants, engineers and others that presumably could have been utilized to prepare,
21 file and defend its rate increase request. However, Company chose to go outside its

1 employee base by hiring two outside legal firms and three outside consultants to develop
2 and present significant portions of its case. Public Counsel believes that the in-house
3 resources should have been expanded to include legal and other activities for as much of
4 the rate case work as possible prior to resorting to the hiring of outside attorneys and
5 consultants.

6
7 Q. DOES PUBLIC COUNSEL BELIEVE THAT COMPANY HAS THE PROPER
8 INCENTIVE TO CONTROL THE LEVEL OF EXPENDITURES IT IS INCURRING
9 FOR THE CURRENT GENERAL RATE INCREASE CASE?

10 A. No. Company's management apparently believes that because it decides to incur outside
11 legal and consultant costs in processing its request for a rate increase, those expenditures
12 should be considered and authorized as an automatic recovery from ratepayers. Public
13 Counsel believes that rationale is neither appropriate nor reasonable. It is not appropriate
14 because the idea itself results in monopolistic inefficiencies which lead to higher rates
15 than should have actually occurred.

16
17 The utility should always be actively seeking to reduce its cost structure so that
18 ratepayers do not end up paying higher rates than absolutely necessary, but the
19 indiscriminate incurrence of excessive expenditures runs counter to that goal. Also, it is
20 not reasonable due to the fact that if the expenditures are to be incurred, they must be
21 done so with the understanding that they are the most cost-effective alternative and their

1 incurrence will be scrutinized thoroughly so as to avoid the payment of improper or
2 unreasonable charges. Company's view that it can spend whatever it desires to process
3 its rate increase request, because the expenditures are an entitlement subject to automatic
4 recovery, provides no incentive for controlling costs.

5
6 Q. SHOULD REASONABLE AND NECESSARY EXPENDITURES TO PREPARE AND
7 PRESENT A RATE CASE BE ALLOWED IN THE DETERMINATION OF FUTURE
8 RATES RECOVERED FROM RATEPAYERS?

9 A. Yes; however, ratepayers should be held accountable only for a proportionate share of such
10 expenditures since both ratepayers and shareholders benefit from their incurrence. If the
11 costs incurred are determined to be prudent, reasonable and necessary, both ratepayers and
12 shareholders should be held responsible for their payment since both parties benefit from
13 these expenditures.

14
15 Q. SHOULD THE COMMISSION SUBSTITUTE ITS JUDGMENT FOR THAT OF THE
16 COMPANY'S MANAGEMENT IN CHOOSING WHICH RATE CASE EXPENSES TO
17 INCUR?

18 A. No. The Commission should not seek to substitute its judgment – or that of any
19 intervenor – for the Company's in determining which employee, consultant or legal
20 counsel is best suited to serve the Company's interests. However, the need to contain
21 rate case expense should be accorded a high priority. In seeking recovery of rate case

1 expense, regulated utilities must provide adequate justification that their choice to use the
2 services of outsiders to develop and process the case is both reasonable and cost-
3 effective. Ratepayers should not underwrite rate case expenses when the Company has
4 not properly evaluated its options. Recovery of rate case expense should not be
5 automatic.

6
7 Q. SHOULD THE COMMISSION DETER THE COMPANY FROM SEEKING
8 NECESSARY ASSISTANCE TO DEVELOP AND IMPLEMENT ITS GENERAL
9 RATE INCREASE CASE?

10 A. No. The Commission should not deter Company from seeking necessary assistance in
11 preparing, supporting and implementing a general rate increase case. However, Ameren
12 Missouri currently has approximately 4,321 employees whose wages and benefits are
13 treated as operating expenses and paid by its customers. Public Counsel believes it
14 probable that a greater number of these employees could have been utilized to prepare
15 and defend the Company's current request for a rate increase.

16 Presumably, some of the Company's and/or its affiliates employees have sufficient
17 expertise and familiarity with utility operations and regulation to enable them to assist in
18 the preparation of a general rate increase case and then support their findings before the
19 Commission; thus, the Company should be able to prepare and implement a general rate
20 increase case without the need of large expenditures for outside legal counsel or
21

1 consultants. The Company should be advised that in order for the expense of outside
2 legal or consultants to be considered allowable rate case expenses, they must be incurred
3 in the most efficient and prudent manner possible. This is particularly true in the case of
4 Ameren Missouri due to its size and frequency of rate increase requests (e.g., this is the
5 fourth request for a general increase in approximately the last 4 years.).

6
7 Q. SHOULD CONSUMERS BE FORCED TO PAY FOR ELABORATE DEFENSES OF
8 PRIVATE INTEREST?

9 A. No. Costs incurred by Company to present and defend positions on expense recovery
10 and investment return which only benefit shareholders and management should not be
11 recovered from ratepayers. For example, some aspects of Ameren's executive incentive
12 compensation are directly or indirectly influenced by management's ability to obtain
13 favorable outcomes in rate proceedings. For example, **

14
15 ** In addition,**

16 **.

17
18 Management has no incentive to present a "bare bones" revenue requirement request;
19 rather it has incentive to present a case that enhances, to the greatest extent plausible, its
20 ability to earn a larger profit for its shareholders. In fact, utility management has a
21 fiduciary obligation to shareholders to act in this manner. Company's response to MPSC

1 Staff DR No. 67 states, in part, **

2
3 ** (emphasis added by OPC) Thus, the
4 utility has hired high-priced consultants and outside attorneys to pursue those efforts.
5 However, it is inequitable to require ratepayers to pay the utility's costs of seeking a rate
6 increase greater than a minimum revenue requirement necessary for the services
7 provided.
8

9 Q. WHAT DOES PUBLIC COUNSEL BELIEVE CONSTITUTES AN ELABORATE
10 DEFENSE?

11 A. Elaborate defense, as used here, consists of Company's hiring of outside legal counsel and
12 consultant services to support its rate case when it is very likely its own and/or affiliate
13 personnel could have done the job just as well and perhaps more effectively.
14

15 Q. SHOULD RATEPAYERS BE AFFORDED EVERY OPPORTUNITY TO SAVE MONEY
16 THROUGH REDUCED COSTS AND EFFICIENT SERVICE?

17 A. Yes. Since utility ratepayers are a captive population, the utility should use all means
18 possible to ensure that ratepayers receive safe and efficient service at the most reasonable
19 and efficient cost possible.
20

1 Q. DOES THE COMPANY'S USE OF OUTSIDE CONSULTANTS TO SUPPORT ITS
2 RATE CASE FILING YIELD EFFICIENT SERVICE AT A REASONABLE COST?

3 A. No. The Company and its affiliates likely have sufficient personnel and resources to process
4 a general rate increase case in this State. However, it is OPC's belief, the Company did not
5 fully utilize those personnel and resources. For example, there are a number of attorneys
6 employed by Ameren Missouri and/or its affiliates that have regulatory experience; instead
7 of utilizing the knowledge and skills of those employees to present its case, the Company
8 chose instead to hire two outside firms to handle legal aspects of the case. Public Counsel
9 believes that to be a duplicative and inefficient use of Company resources. The same goes
10 for the Company's utilization of outside consultants for various accounting and economic
11 activities associated with the current case. Use of its own and/or affiliate employees would
12 have likely provided services in a more cost-effective manner.

13
14 Q. DOES PUBLIC COUNSEL BELIEVE THAT SHAREHOLDERS SHOULD CARRY AN
15 EQUAL PROPORTION OF THE COST OF THIS RATE CASE FOR WHICH THEY
16 TOO RECEIVE A BENEFIT?

17 A. Yes. Benefits that inure to ratepayers from a utility rate case are at least matched (if not
18 exceeded) by benefits enjoyed by the shareholders of the same utility. Therefore, utilities
19 should be vigilant in controlling their rate case expenses so that owners and customers are
20 not unduly burdened by the incurrence of unnecessary or inefficient costs.

1 Q. DOES SHAREHOLDER PAYMENT OF A PORTION OF THE RATE CASE
2 EXPENDITURES CONSTITUTE AN UN-EQUITABLE FORFEITURE?

3 A. Not in my opinion. Since the shareholders stand to gain from the opportunity to earn any
4 increase in revenue requirement authorized by the Commission, they too benefit from the
5 costs incurred to proceed with the case. It stands to reason that if the authorized revenue
6 requirement exceeds the case costs they expend, they have a net benefit; thus, there is no
7 un-equitable forfeiture.

8
9 Q. ARE RATE CASE COSTS OUTSIDE THE CONTROL OF MANAGEMENT?

10 A. No. There is a certain amount of “embedded costs” inherent in any general rate increase
11 case; however, most of the costs are not beyond the Company’s control. For example,
12 the Company chooses the employees, attorneys and consultants it wants to present its
13 case. The Company then chooses how they are going to comply with discovery and what
14 efforts, if any, they will make to facilitate and economize the process. Furthermore, the
15 Company dictates what measures it will take to mitigate rate case expense by choosing
16 which positions it favors and seeks to pursue or not pursue within the case.

17
18 Q. IF THE COMPANY CHOOSES TO INCUR CERTAIN EXPENDITURES SHOULD
19 THE COMMISSION AUTOMATICALLY ASSUME THAT THE COSTS ARE
20 PRUDENT, REASONABLE AND NECESSARY?

1 A. No. Even though there are certain costs inherent in the Commission's process, the costs
2 incurred should still be prudent, reasonable and necessary. The Commission should not
3 assume that just because the utility expended the resources that the costs should be
4 automatically recoverable from ratepayers. In fact, a large portion of the Company's rate
5 case expense in the current case is not prudent, reasonable or necessary.

6
7 Public Counsel believes that it is incumbent on the Company to mitigate its rate case
8 expense because the Company alone has chosen to initiate and process the rate increase
9 request. Moreover, if the Company decides to engage in conduct that increases rate case
10 expense, it is the Company that has the burden of establishing the amount incurred and
11 showing that it is prudent, reasonable and necessary. The Commission is obligated to
12 consider competing policies of what expenses should be considered in ratemaking
13 decisions including rate case expense. Therefore, in establishing rates, the Commission
14 is required to balance the public need for adequate, efficient, and reasonable service with
15 the utility's need for sufficient revenue to meet the cost of furnishing service and earning
16 a reasonable return on investment.

17
18 The Company apparently expects the Commission to take its word that all the costs it
19 expects to incur are prudent, reasonable and necessary. That is not a reasonable position
20 because rate case expenditures involve a high degree of management choice and
21 discretion over whether or not to incur each expense. The Commission should look past

1 the Company's simplistic position and base its decision on whether or not each
2 expenditure was prudent, reasonable and necessary.

3
4 Q. DO YOU PROPOSE TO DISALLOW ALL COMPANY'S RATE CASE EXPENSE?

5 A. No. In general, if costs incurred by a utility to prepare and present a rate case are
6 prudent, reasonable and necessary they should be properly recoverable from ratepayers.
7 The ratepayer's portion should be treated as an ordinary and reasonable cost of doing
8 business. However, the Commission should also note that the amount estimated to be
9 expended by Company in the current rate case (i.e., approximately \$1.903M) should be
10 considered excessive for a utility which applies for rate increases relatively frequently,
11 understands the regulatory process, has personnel on its staff who are now or were
12 previously directly involved in the regulatory process, and is litigating essentially the
13 same issues as those litigated in its last several general rate increase cases.

14
15 Q. WHAT IS THE AMOUNT OF RATE CASE EXPENSE YOU ARE RECOMMENDING
16 COMPANY BE AUTHORIZED TO RECOVER FROM RATEPAYERS?

17 A. The Company has not fully incurred its rate case expense for the current case so an exact
18 amount recommendation is not yet available. When all the costs become known and
19 measurable, OPC will provide its recommendation for the amount of rate expense that the
20 Commission should authorize for recovery. Public Counsel's recommendation will be
21 based on the belief that it is the Company that bears the burden of proof in these

1 proceedings and it must establish that any expenditure it incurs is prudent, reasonable and
2 necessary. However, based on the cost estimates provided and actual costs incurred to-
3 date, it is Public Counsel's opinion that the standard has not been met as it pertains to
4 costs for outside legal counsel and consultants. Public Counsel believes that the
5 Commission should disallow all costs the Company incurs associated with the outside
6 legal counsel and consultants hired to develop and process the current case for two
7 reasons:

- 8
- 9 1. It is likely the Company and/or affiliates employees could have developed and
10 processed the case without the need for hiring outside attorneys and outside
11 consultants.
 - 12 2. Ratepayers should not be forced to pay for elaborate defenses of private interests.
- 13

14 Q. DOES PUBLIC COUNSEL BELIEVE AN ALTERNATIVE POSITION EXISTS OTHER
15 THAN SIMPLY DISALLOWING OUTSIDE LEGAL COUNSEL AND CONSULTANT
16 COSTS WITH THE REMAINDER OF PRUDENT, REASONABLE AND NECESSARY
17 COSTS BEING RECOVERED FROM RATEPAYERS?

18 A. Yes. Public Counsel believes that the question of who benefits from the incurrence of the
19 costs is an important consideration. A general rate increase case arises for the benefit of
20 a utility's shareholders due to the fact that a primary motivator in filing a rate case is to
21 add shareholder value by increasing rates. Ratepayers benefit from the service and

1 operational aspects that result. Since rate case expense is a complex problem in that both
2 shareholders and ratepayers benefit from a general rate increase proceeding - both should
3 be held responsible for recovery of costs incurred that are prudent, reasonable and
4 necessary.

5
6 One alternative would be to allocate the actual costs incurred to shareholders and
7 ratepayers based on a ratio of the revenue increase authorized by the Commission to the
8 revenue increase requested by the Company. If 100% of the revenue increase requested
9 is authorized, then 100% of the incurred rate case expense is allocated to ratepayers (on a
10 normalized basis). If the revenue increase authorized is less than the requested amount,
11 then the percentage of rate case expense to be recovered from ratepayers is reduced by an
12 equal percentage reduction. In that way, each bears some of the burden for the benefits
13 they receive.

14
15 Q. DOES COMPANY INCUR ANY OTHER EXPENSE WHICH BENEFITS
16 SHAREHOLDERS AND IS NOT RECOVERED FROM RATEPAYERS?

17 A. Yes. One example that comes to mind is advertising expense. Advertising that benefits
18 ratepayers, e.g., general and safety, is recovered from ratepayers while goodwill
19 advertising is not. The assignment of the costs associated with goodwill advertising to
20 shareholders is recognition by the Commission that they benefit from the incurrence of

1 the costs and should be held responsible for their payment. In my opinion, the same
2 analogy applies to rate case expense.

3
4 Q. IS THERE USUALLY A NEED TO NORMALIZE THE ANNUALIZED RATE CASE
5 EXPENSE AUTHORIZED BY THE COMMISSION?

6 A. Yes. Since utilities do not normally file a rate increase request on a yearly basis, the
7 costs incurred to process the activity should be recovered over a period of years
8 representative of the frequency the utility's rates change from case to case. The costs
9 should be normalized over that period of time necessary to complete the cycle of activity.
10 Ameren Missouri is somewhat unique in that the authorized rate changes permitted from
11 Case No. ER-2008-0318 through to the current case (assuming the current case
12 approximates the effective law date) averages around fifteen (15) months.

13
14 Q. DOES PUBLIC COUNSEL RECOMMEND A SPECIFIC NORMALIZATION
15 PERIOD?

16 A. Yes. I have reviewed the frequency of occurrence for the Company's general rate
17 increase filings and Commission authorized date for change in rates in cases ER-2008-
18 0318, ER-2010-0036, ER-2011-0036 and the effective law date of the current case. For
19 the instant case, Public Counsel recommends the Commission authorized rate case
20 expense be normalized for a one and one-quarter (1.25) year cycle. The addition of one-
21 quarter (1/4) of a year to the recommended normalization period may appear nonsensical

1 and immaterial, but the actual cost impact of not authorizing the addition could
2 potentially allow the Company to recover from ratepayers thousands of dollars to which
3 it is not entitled.
4

5 Q. DO YOU PROPOSE THE INCLUSION IN YOUR NORMALIZED LEVEL OF RATE
6 CASE EXPENSE ANY OTHER COSTS ASSOCIATED WITH ANY PRIOR GENERAL
7 RATE INCREASE CASE?

8 A. No. Public Counsel's recommendation includes only rate case expenses associated with the
9 current rate increase request be authorized for recovery in rates on a going forward basis. To
10 include rate case expenses incurred for previous general rate increase cases would defeat the
11 concept and practical application of a normalization adjustment - not to mention provide
12 Company with a guaranteed recovery of the prior period costs, rather than just "the
13 opportunity to earn" as provided for in regulatory theory and practice.
14

15 Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

16 A. Yes.

**CASE PARTICIPATION
OF
TED ROBERTSON**

<u>Company Name</u>	<u>Case No.</u>
Missouri Public Service Company	GR-90-198
United Telephone Company of Missouri	TR-90-273
Choctaw Telephone Company	TR-91-86
Missouri Cities Water Company	WR-91-172
United Cities Gas Company	GR-91-249
St. Louis County Water Company	WR-91-361
Missouri Cities Water Company	WR-92-207
Imperial Utility Corporation	SR-92-290
Expanded Calling Scopes	TO-92-306
United Cities Gas Company	GR-93-47
Missouri Public Service Company	GR-93-172
Southwestern Bell Telephone Company	TO-93-192
Missouri-American Water Company	WR-93-212
Southwestern Bell Telephone Company	TC-93-224
Imperial Utility Corporation	SR-94-16
St. Joseph Light & Power Company	ER-94-163
Raytown Water Company	WR-94-211
Capital City Water Company	WR-94-297
Raytown Water Company	WR-94-300
St. Louis County Water Company	WR-95-145
United Cities Gas Company	GR-95-160
Missouri-American Water Company	WR-95-205
Laclede Gas Company	GR-96-193
Imperial Utility Corporation	SC-96-427
Missouri Gas Energy	GR-96-285
Union Electric Company	EO-96-14
Union Electric Company	EM-96-149
Missouri-American Water Company	WR-97-237
St. Louis County Water Company	WR-97-382
Union Electric Company	GR-97-393
Missouri Gas Energy	GR-98-140
Laclede Gas Company	GR-98-374
United Water Missouri Inc.	WR-99-326
Laclede Gas Company	GR-99-315
Missouri Gas Energy	GO-99-258
Missouri-American Water Company	WM-2000-222
Atmos Energy Corporation	WM-2000-312
UtiliCorp/St. Joseph Merger	EM-2000-292
UtiliCorp/Empire Merger	EM-2000-369
Union Electric Company	GR-2000-512
St. Louis County Water Company	WR-2000-844
Missouri Gas Energy	GR-2001-292
UtiliCorp United, Inc.	ER-2001-672
Union Electric Company	EC-2002-1
Empire District Electric Company	ER-2002-424

**CASE PARTICIPATION
OF
TED ROBERTSON**

Company Name	Case No.
Missouri Gas Energy	GM-2003-0238
Aquila Inc.	EF-2003-0465
Aquila Inc.	ER-2004-0034
Empire District Electric Company	ER-2004-0570
Aquila Inc.	EO-2005-0156
Aquila, Inc.	ER-2005-0436
Hickory Hills Water & Sewer Company	WR-2006-0250
Empire District Electric Company	ER-2006-0315
Central Jefferson County Utilities	WC-2007-0038
Missouri Gas Energy	GR-2006-0422
Central Jefferson County Utilities	SO-2007-0071
Aquila, Inc.	ER-2007-0004
Laclede Gas Company	GR-2007-0208
Kansas City Power & Light Company	ER-2007-0291
Missouri Gas Utility, Inc.	GR-2008-0060
Empire District Electric Company	ER-2008-0093
Missouri Gas Energy	GU-2007-0480
Stoddard County Sewer Company	SO-2008-0289
Missouri-American Water Company	WR-2008-0311
Union Electric Company	ER-2008-0318
Aquila, Inc., d/b/a KCPL GMOC	ER-2009-0090
Missouri Gas Energy	GR-2009-0355
Empire District Gas Company	GR-2009-0434
Lake Region Water & Sewer Company	SR-2010-0110
Lake Region Water & Sewer Company	WR-2010-0111
Missouri-American Water Company	WR-2010-0131
Kansas City Power & Light Company	ER-2010-0355
Kansas City Power & Light Company	ER-2010-0356
Timber Creek Sewer Company	SR-2010-0320
Empire District Electric Company	ER-2011-0004
Union Electric Company, d/b/a AmerenUE	ER-2011-0028
Missouri-American Water Company	WR-2011-0337
Union Electric Company, d/b/a AmerenMO	EU-2012-0027
Missouri-American Water Company	WA-2012-0066
Union Electric Company, d/b/a AmerenMO	ER-2012-0166