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CASE NO. ER-2010-0036

**ADDITIONAL REBUTTAL TESTIMONY REGARDING
AMERENUE'S FUEL ADJUSTMENT CLAUSE**

OF

LYNN M. BARNES

ON

BEHALF OF

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

**** DENOTES HIGHLY CONFIDENTIAL INFORMATION ****

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TABLE OF CONTENTS

I. INTRODUCTION	2
II. RESPONSE TO MS. MANTLE.....	3
III. RESPONSE TO MR. BRUBAKER.....	13
IV. RESPONSE TO MR. KIND.....	16
V. SUMMARY AND CONCLUSIONS.....	18

ADDITIONAL REBUTTAL TESTIMONY
REGARDING AMERENUE'S FUEL ADJUSTMENT CLAUSE
OF
LYNN M. BARNES

CASE NO. ER-2010-003

1 **I. INTRODUCTION**

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

3 A. My name is Lynn M. Barnes. My business address is One Ameren Plaza,
4 1901 Chouteau Avenue, St. Louis, Missouri 63103.

5 **Q. Are you the same Lynn M. Barnes who filed direct testimony in this case**
6 **on July 24, 2009 and additional direct testimony regarding AmerenUE's Fuel**
7 **Adjustment Clause on February 22, 2010?**

8 A. Yes, I am.

9 **Q. What is the purpose of your additional rebuttal testimony?**

10 A. The purpose of my additional rebuttal testimony is to respond to the
11 testimonies filed on February 22, 2010 by Staff witness Lena M. Mantle, Missouri Industrial
12 Energy Consumers (MIEC) witness Maurice Brubaker, and Office of the Public Counsel
13 (OPC) witness Ryan P. Kind. I would note that AmerenUE witnesses Robert K. Neff, Jaime
14 Haro, James Massman, Randall Irwin, Gary M. Rygh and Julie M. Cannell are also filing
15 rebuttal testimony regarding some of the points raised by Ms. Mantle and Messrs. Brubaker
16 and Kind.

1 **II. RESPONSE TO MS. MANTLE**

2 **Q. To what points in Ms. Mantle's supplemental direct testimony will you**
3 **respond?**

4 A. Ms. Mantle makes several points with which I agree. She confirms that the
5 Staff continues to recommend approval of the FAC included with my July 24, 2009 direct
6 testimony, which in all material respects is the same as AmerenUE's existing FAC.¹ Ms.
7 Mantle recognizes that circumstances have not changed in any significant way since the
8 Commission approved AmerenUE's FAC approximately one year ago and she also
9 recognizes that there is simply no data that gives the Staff information upon which it would
10 base a claim that the FAC is somehow "ineffective" or without benefits (a recognition she
11 characterizes as "not insignificant"). I agree that the reasons given by the Staff on December
12 18, 2009 for recommending continuation of AmerenUE's FAC continue to exist today, that
13 there is no evidence to support the conclusion that AmerenUE's FAC is not appropriate, that
14 it is ineffective, or that it is without benefit. More significantly, I agree that there is no new
15 evidence or change in circumstance since the FAC was first approved only approximately
16 one year ago that would lead to a fair conclusion that its sharing mechanism should be
17 changed.

18 **Q. Does Ms. Mantle make any other points with which you agree?**

19 A. Yes, she does. She recognizes that without an FAC, increases in fuel costs
20 will not be recovered between the time when those cost increases take effect and when new

¹ As previously noted, the Staff recommended a few housekeeping modifications to the FAC tariff itself, with which the Company has already agreed.

1 rates resulting from a general rate increase can become effective (e.g., coal costs that
2 generally increase effective January 1 of each year). She is absolutely correct in this
3 observation, as I will explain and quantify below. Ms. Mantle also indicates that the Staff
4 "believes that a FAC is a tool, if used appropriately, that may benefit both utility customers
5 and utility shareholders." I agree with this observation as well. Notably, Ms. Mantle makes
6 no allegation that this tool has not been used appropriately by AmerenUE in the short time it
7 has been in effect.

8 **Q. Does Ms. Mantle make any points with which you disagree?**

9 A. Yes, she does. She seems to suggest that issues she claims the Staff has had
10 with The Empire District Electric Company (Empire) or KCPL-Greater Missouri Operations
11 (KCPL-GMO) have something to do with AmerenUE.² I disagree. Issues the Staff might
12 have with other utilities have nothing to do with AmerenUE, AmerenUE's rate case filing, or
13 the manner in which AmerenUE manages its net fuel costs. There is certainly no basis in any
14 evidence that would suggest that AmerenUE has not appropriately managed its net fuel costs,
15 or has otherwise acted inappropriately now that it has an FAC.

16 **Q. Does Ms. Mantle raise any issues that do relate to AmerenUE that you**
17 **wish to address?**

18 A. Yes, she raises three such issues as follows: (a) she compares the Staff's
19 position regarding an FAC for AmerenUE in Case No. ER-2007-0002 versus its position in
20 Case No. ER-2008-0318, (b) she discusses AmerenUE's fuel mix, and (c) she makes
21 suggestions about the importance of the net fuel cost calculations in this rate case. I will
22 address these issues later in my testimony.

² I can't really speak to whether, and to what extent, any such issues have existed.

1 **Q. Earlier you noted a problem with the under-recovery of fuel costs that**
2 **would occur in the absence of an FAC. Has anyone proposed the elimination of**
3 **AmerenUE's FAC?**

4 A. No one suggested that AmerenUE should not have an FAC, but Ms. Mantle's
5 rebuttal testimony did include a fairly long discussion of the Staff's prior opposition to an
6 FAC. Included in that discussion was at least a suggestion (whether intentional or not) that
7 filing rate case after rate case after rate case, and attempting to time them so that they would
8 capture fuel cost increases, might obviate or mitigate the need for an FAC, although Ms.
9 Mantle does seem to recognize that it would be impossible to time rate cases to avoid the
10 likelihood of substantial losses without an FAC.

11 **Q. To what specifically are you referring?**

12 A. From page 4, line 16 to page 5, line 1 of Ms. Mantle's supplemental direct
13 testimony, Ms. Mantle suggests that coal cost increases effective January 1, 2010 will be
14 taken into account in setting rates in this case since AmerenUE filed this rate case just five
15 months after its rates were last increased. Of course, those cost increases are not accounted
16 for in the current rates that are and will be effective from January to June 2010. On page 9,
17 lines 1 to 16, Ms. Mantle suggests that fuel cost increases on January 1, 2011 would be
18 captured in rates that would take effect following another AmerenUE rate case Staff expects
19 to be filed sometime in the near-term after this rate case is over, driven in part by the
20 Company's need to include the scrubbers being installed at the Sioux Plant in rate base.
21 Finally, from page 9, starting at line 8 to page 10, line 2, Ms. Mantle appears to recognize
22 that even if another rate case is filed after this case is concluded, there will be many months

- 1 of lag between the time when fuel costs increase and when they can be reflected in rates.
2 Fuel cost increases lost during that lag will never be recovered.

3 **Q. Please elaborate on the issue of attempting to "time" rate cases as a**
4 **substitute for an FAC.**

5 A. Focusing solely on Mr. Neff's rebuttal testimony regarding coal costs,
6 contracted-for coal and coal transportation cost increases that occurred on January 1, 2010
7 and that will occur on January 1, 2011 would not be recovered without an FAC between the
8 date of increase (January 1) and the date new rates would take effect (in June of this year, for
9 the January 1, 2010 increases, and in June of 2011 for the January 1, 2011 increases, if one
10 assumes AmerenUE filed another rate case on July 1 of this year).³ For coal costs alone, the
11 unrecovered costs would have totaled approximately ** ____ ** million in 2010 had the
12 current FAC not been in place, and would total approximately ** ____ ** million in 2011,
13 without an FAC. This is the same phenomenon Mr. Neff addressed in Case No. ER-2008-
14 0318, and would simply reflect an under-recovery of approximately ** ____ ** million of
15 *prudently incurred* coal and coal transportation costs.⁴ In summary, the evidence now is
16 essentially the same as the evidence in the last case: timing rate cases simply cannot be
17 counted on to recover these contracted-for fuel cost increases. Ms. Mantle doesn't appear to
18 disagree, but given the implication of her statements regarding the timing of this rate case or

³ Note that another filing on July 1, 2010 is simply illustrative, and this would reflect the minimal amount of lag relating to a subsequent rate case. Thus, the losses for 2011 if an FAC were not in place could be higher if a rate case is filed later than July 1.

⁴ Attached to this testimony as Schedule LMB-FR5 are portions of the rebuttal testimony of AmerenUE witness Martin Lyons in Case No. ER-2008-0318, where Mr. Lyons quantifies the financial impact on AmerenUE of bearing similar cost increases in the absence of an FAC. I am intimately familiar with the data underlying the numbers cited in Mr. Lyons' testimony on this point, and agree with them. Mr. Neff has also attached a portion of his rebuttal testimony from Case No. ER-2008-0318 as a schedule to his rebuttal testimony filed concurrently with this testimony.

1 a possible additional rate case, the Commission should be aware that trying to time rate cases
2 to recover prudently incurred fuel cost increases is not an adequate substitute for an FAC.

3 **Q. Do you have other comments regarding Ms. Mantle's discussion of the**
4 **Staff's position on the FAC in prior cases?**

5 A. Yes. The Staff in part justifies its decision to oppose AmerenUE's FAC request in
6 the last case (Case No. ER-2008-0318) based on the argument that circumstances from Case
7 No. ER-2007-0002 had not changed. Ms. Mantle suggests that the Staff's view at that time
8 was that coal and uranium cost increases were predictable so an FAC wasn't needed, that
9 AmerenUE had some control over the prices it pays for fuel suggesting an FAC was not
10 needed, and that AmerenUE made significant off-system sales, which could have offset fuel
11 cost increases. See pages 3 to 4 of Ms. Mantle's supplemental direct testimony.

12 **Q. Please address each of these points.**

13 A. I addressed them in my additional direct testimony. In brief, in the
14 Company's last rate case the Commission disagreed with these arguments that Staff had
15 essentially carried over from Case No. ER-2007-0002. For the reasons given by the
16 Commission, and as shown by the severe financial losses increased fuel prices would likely
17 cause without an FAC (summarized above), the fact that AmerenUE follows prudent risk
18 management policies and hedges its fuel costs to promote stability and reduce risk does not
19 obviate the need for an FAC. Moreover, as Messrs. Neff, Irwin, Massman and Haro discuss,
20 AmerenUE simply cannot control its fuel and purchased power costs or the revenues it
21 obtains from off-system sales even when it hedges. Staff's prior argument, apparently that
22 hedging equates to "control," has been rejected by the Commission and for good reason: the
23 Company doesn't control the national and international markets in which AmerenUE must

1 buy fuel and sell power. If it did, AmerenUE's fuel costs would not go up, and AmerenUE
2 would have prevented the severe drop in the price of power we've seen since mid-2008,
3 which has led to a precipitous drop in off-system sales revenues. In fact, consider that
4 delivered coal costs increased on January 1, 2009 and January 1, 2010, yet off-system sales
5 are down substantially. The facts are, as Ms. Mantle recognizes (supplemental direct
6 testimony, p. 4, lines 14-16), that nothing material has changed since March 1, 2009, when
7 AmerenUE's FAC started, and thus none of the arguments made in earlier cases support
8 changing the FAC.

9 I would also note that the FAC proposed by the Company in Case No. ER-2007-0002
10 was materially different than the FAC at issue in the Company's last case, which was
11 approved by the Commission, and which is essentially identical to the FAC that AmerenUE
12 seeks to continue in this case. Thus, the reasons for denying AmerenUE's FAC request two
13 cases ago, which the Staff attempted to carry over to a different FAC proposal based upon
14 substantially different evidence in the last case, have no application here. In summary, the
15 evidence and justifications upon which the Commission approved the existing FAC have not
16 changed, as the Staff recognizes, which in turn means there is no basis for changing
17 AmerenUE's FAC.

18 **Q. Near the beginning of this testimony you noted that Ms. Mantle raised**
19 **some points with which you disagreed, and that appeared in any event to be directed**
20 **toward other utilities. Please address those points now.**

21 **A. In Ms. Mantle's testimony the following question is posed: "Does Staff have**
22 **any observations about the 95% sharing mechanism that it would share with the**
23 **Commission?" Ms. Mantle then answers that question with a discussion about Aquila (now**

1 KCPL-GMO) and Empire, with very little mention of AmerenUE. The gist of Ms. Mantle's
2 answer appears to be that the Staff is unhappy with KCPL-GMO's presentation of its rate
3 increase request in its last rate case (Case No. ER-2009-0090) and also for reasons with
4 which I am not familiar the Staff apparently has concerns about Empire's currently pending
5 rate case. Ms. Mantle then seems to imply that because of the Staff's issues with KCPL-
6 GMO and Empire there might be some issue about AmerenUE's handling of fuel and
7 purchased power costs in this rate case (see starting on page 11, line 16 to page 12, line 5),
8 but she provides no support for what she admits is nothing more than a "belief" on the Staff's
9 part.

10 **Q. Do you have an understanding of the issue she raises about KCPL-GMO?**

11 A. I believe so, yes. When KCPL-GMO filed its rate case it did not include that
12 part of the rate increase it was seeking that related to re-basing its fuel costs in its minimum
13 filing requirements. It is my understanding that this concerned the Staff on the grounds that
14 some might under-estimate the total base rate increase being sought.

15 **Q. What does this have to do with AmerenUE, with the appropriateness of**
16 **AmerenUE's FAC, or with the appropriateness of the 95%/5% pass-through**
17 **mechanism in AmerenUE's FAC?**

18 A. Absolutely nothing. In fact, AmerenUE approached the Staff about the
19 concerns the Staff had about the KCPL-GMO filing before AmerenUE filed this case,
20 solicited the Staff's specific input on exactly how the Company should present its rate
21 increase request (including that part that reflected re-basing its net fuel costs), solicited the
22 Staff's input on the content of the Company's minimum filing requirements and the local
23 public hearing notice that would be provided to customers, and essentially adopted all of the

1 Staff's input on this issue. AmerenUE was entirely up-front about the full \$402 million rate
2 increase it was seeking, and no one, including the Staff, has (and I would submit could)
3 criticize what AmerenUE did in this regard.

4 **Q. Why would Ms. Mantle bring this issue up?**

5 A. I don't know, but my concern with her doing so is that she did so in a piece of
6 testimony relating to AmerenUE's FAC, when it has nothing whatsoever to do with the
7 merits of AmerenUE's FAC or the appropriateness of the 95%/5% cost sharing provision in
8 AmerenUE's FAC.

9 **Q. What about Ms. Mantle's discussion of "accuracy in calculating fuel**
10 **costs?"**

11 A. Ms. Mantle points to the Staff's concerns about the information KCPL-GMO
12 filed and how Empire addressed fuel costs in its pending rate case, and then suggests that
13 those utilities and AmerenUE "to a lesser extent" may have a viewpoint that accuracy in fuel
14 cost calculations is less important given a 95%/5% sharing mechanism. I am not sure what
15 Ms. Mantle means. First of all, with regard to KCPL-GMO she simply states that "it
16 appeared" that KCPL-GMO is less concerned with accuracy. This appears to be pure
17 speculation on her part, but regardless, it has nothing to do with AmerenUE. Then she states
18 that "Staff believes" that Empire's sharing mechanism "significantly contributed" to
19 Empire's decision not to update its fuel costs in its rate case. That too appears to be pure
20 speculation, but again, it has nothing to do with AmerenUE given that AmerenUE *did* rebase
21 its net fuel costs in this case. She then makes a circular argument to the effect that the lack of
22 "discussion" regarding AmerenUE's calculation of its net fuel costs somehow suggests a lack
23 of care on AmerenUE's part, and that this is somehow tied to the sharing mechanism.

1 **Q. Do the facts even remotely support Ms. Mantle's supposition in this**
2 **regard?**

3 A. No. As AmerenUE witness Timothy D. Finnell discusses in his fuel
4 adjustment clause rebuttal testimony, AmerenUE calculated its fuel costs with the same
5 attention to detail and rigor as it has done in each of its past two rate cases, when it asked for,
6 but did not yet have an FAC. As Mr. Finnell also indicates, his review of the Staff's fuel
7 modeling indicates that Staff also modeled its net fuel costs with the same attention to detail
8 as it has previously done. Finally, Mr. Finnell points out that the lack of "discussion" over
9 fuel cost calculation issues is a function of the fact that the Company and the Staff have
10 worked together for three straight rate cases on these issues, coupled with the greater
11 development of the wholesale power markets, and has nothing to do with a lack of attention
12 to detail or any inaccuracy in estimating normalized net fuel costs.

13 **Q. Does the existence of an FAC or sharing in the FAC affect the need to**
14 **accurately set a normalized level of net fuel costs when rates are re-set in a rate case?**

15 A. No, and I addressed this very issue in my July 24, 2009 direct testimony. The
16 Company, and notwithstanding Ms. Mantle's testimony I believe the Staff, has diligently
17 endeavored to accurately determine AmerenUE's normalized net fuel costs for purposes of
18 setting rates in this case.

19 **Q. How do you respond to Ms. Mantle's comment about "gaming" the fuel-**
20 **non-fuel split in a rate increase case?**

21 A. The same points I just made apply equally to this out-of-left-field comment.
22 Ms. Mantle has absolutely no basis to suggest that AmerenUE has failed to accurately
23 calculate its net fuel costs, that it has "gamed" anything, that AmerenUE has changed its fuel

1 and purchased power hedging or purchasing practices (or those practices regarding its off-
2 system sales), or that AmerenUE has otherwise changed how it operates its business, as a
3 consequence of utilizing the FAC. In fact, if the Company fails to properly rebase its net fuel
4 costs in each rate case, then the Company puts itself at risk of failing to recover 5% of the
5 change in net fuel costs through the FAC, even if the fuel and purchased power expenses and
6 off-system sales were prudently incurred and made.

7 **Q. Do you have any final comments on Ms. Mantle's somewhat extended**
8 **discussion of what the "Staff believes" about what other utilities may have done, and**
9 **how that relates to *this* case for AmerenUE?**

10 **A.** Yes, I do. Ms. Mantle admits that the Staff, after six months of auditing the
11 Company's direct case, recommended continuation of AmerenUE's FAC without any
12 material, substantive changes. She claims the Staff is standing by that recommendation and
13 its agreement that if it had a concern it had to raise it by December 18, 2009. She cites no
14 new fact or development that suggests that agreement is in any way inappropriate. She cites
15 no evidence of imprudence, no evidence of changed behavior, and no evidence that
16 AmerenUE was anything but entirely up-front with the public and the Commission regarding
17 what it was requesting in this case. And while she suggests a lack of diligence in calculating
18 fuel costs, the facts belie her suggestion. In brief, there is nothing in her testimony that
19 suggests that AmerenUE's current FAC, and the current pass-through mechanism, is
20 anything but appropriate.

1 **III. RESPONSE TO MR. BRUBAKER**

2 **Q. Please address Mr. Brubaker's proposal to change the sharing provision**
3 **to an 80%/20% pass-through with a 50 basis point cap.**

4 A. Nothing has changed since the Commission rejected Mr. Brubaker's proposal
5 in the last case, and thus there is no basis for the Commission to change its decision on this
6 issue. Just approximately one year ago, the Commission stated that Mr. Brubaker's proposal
7 "would impose more costs on AmerenUE than is necessary to provide an appropriate
8 incentive."⁵ Citing figures in that case (I have provided corollary figures in this case), the
9 Commission noted that Mr. Brubaker's proposal would "force AmerenUE's shareholders to
10 absorb approximately \$25 million in coal costs alone in 2010."⁶

11 **Q. Please address Mr. Brubaker's allegation that AmerenUE's current**
12 **sharing mechanism is not an appropriate percentage for AmerenUE.**

13 A. Mr. Brubaker states that his views from the last rate case have not changed.
14 Similarly, nothing has changed relating to the Commission's determination that a 5% sharing
15 mechanism, together with other incentives the Company has, provide sufficient incentive for
16 the Company to prudently manage its net fuel costs, including, notably, the fact that the
17 Commission has made clear "A fuel adjustment clause is a privilege, not a right, which can
18 be taken away if the company does not act prudently."⁷ That alone is sufficient incentive for
19 the Company to continue to act prudently in managing its net fuel costs.

⁵ Report and Order, Case No. ER-2008-0318, p. 73. The delivered coal cost increases are expected to be slightly lower in 2010, but the basic point holds – 20% sharing would cause AmerenUE to under-recover approximately ** ** million of prudently incurred coal cost increases in 2010, based upon the information contained in Mr. Neff's rebuttal testimony filed concurrently with this testimony. I would again note that this does not account for higher nuclear fuel costs or lower off-system sales revenues.

⁶ *Id.*

⁷ Report and Order, Case No. ER-2008-0318, p. 74.

1 **Q. Are there other reasons why you disagree with Mr. Brubaker's view that**
2 **the 95%/5% sharing "does not provide adequate incentives to AmerenUE"?**

3 A. Yes. AmerenUE, like all electric utilities, operates in an increasing fuel cost
4 environment. Under those circumstances, Mr. Brubaker's proposal would simply result in
5 the under-recovery of 20% (subject to his 50 basis point cap) of the already-known fuel cost
6 increases, which would penalize AmerenUE relative to the 5% sharing the Commission had
7 already approved for all utilities in the state that are eligible for an FAC. It would also not be
8 reasonably designed to provide AmerenUE with a sufficient opportunity to earn a fair return
9 on equity under circumstances where earning the Company's allowed return will already be a
10 challenge, as I noted in my February 22, 2010 testimony.

11 **Q. Please elaborate.**

12 A. For example, if one considers just the nearly ** ____ ** million in increased
13 coal costs for 2010 and 2011 based upon Mr. Neff's forecasted figures, as outlined in his
14 FAC rebuttal testimony, Mr. Brubaker's sharing proposal would force AmerenUE to absorb
15 the approximately ** ____ ** million of coal costs in 2010 and more than ** ____ ** million in
16 2011 (ignoring any other fuel cost increases). The Commission has now three times rejected
17 calls by others to put utilities in the position of under-recovering more than 5% of their
18 prudently incurred fuel cost increases, recognizing that even the Commission's 95%/5%
19 sharing mechanism is outside the mainstream. Just approximately one year ago, the
20 Commission found that "most fuel adjustment clauses in use around the country provide for a
21 100 percent pass through of costs."⁸ The Commission recognized that departing from the
22 95%/5% mechanism it has thrice approved would hurt AmerenUE's efforts to compete for

⁸ *Id.*, p. 75.

1 capital, and would signal to investors that AmerenUE is less well regarded by the
2 Commission.⁹ AmerenUE witnesses Rygh and Cannell discuss these very issues in their
3 rebuttal testimonies filed concurrently with this testimony.

4 **Q. Are there other flaws in Mr. Brubaker's proposal?**

5 A. Yes. Mr. Brubaker's analysis is flawed because of his failure to account for
6 the fact that AmerenUE's earnings are exposed to much greater uncertainty than Mr.
7 Brubaker contends. In the prior case, Mr. Brubaker based his uncertainty analysis on
8 AmerenUE's (at that time) approximately \$360 million (now more than \$500 million) of net
9 fuel costs, when he should have considered the uncertainty inherent with *each of the*
10 *components* of net fuel costs. In this case, this involves uncertainty associated with more than
11 \$700 million in total fuel and purchased power costs and uncertainty associated with
12 approximately \$300 million in off-system sales revenues.

13 To illustrate the point, consider the case of a hypothetical utility that may have large
14 fuel costs and that may also have off-system sales revenues that equal these fuel costs,
15 resulting in net base fuel costs of zero. In that case, Mr. Brubaker's analysis would suggest
16 that that there is *no impact* on the utility's ROE due to uncertainty in net base fuel costs,
17 which highlights the logical flaw in Mr. Brubaker's approach. This cannot be true given that
18 it is beyond reasonable debate that significant uncertainties exist both with respect to fuel
19 costs and off-system sales revenues. By ignoring these cumulative uncertainties, Mr.
20 Brubaker's illustration understates AmerenUE's exposure and the possible ROE impacts that
21 exposure creates. In addition, Mr. Brubaker's analysis of the ROE impact of a 35% change
22 to AmerenUE's net base fuel costs significantly understates the likely changes to the

⁹ *Id.*, p. 75, p. 74.

1 Company's net fuel costs. Since just the period ending September 30, 2008 (the period upon
2 which net fuel costs were based in the last case), AmerenUE's net fuel costs have increased
3 approximately 67% -- 70% -- about *twice* the increase assumed in Mr. Brubaker's
4 illustration.

5 **IV. RESPONSE TO MR. KIND**

6 **Q. Please respond to Mr. Kind's first point, that is, that his office "believes"**
7 **from a "general perspective" that AmerenUE's current FAC does not provide a**
8 **sufficient incentive to, in his words, "minimize UE's fuel procurement costs and**
9 **maximize the margins gained from off-system sales."**

10 **A.** Mr. Kind's "belief" does not constitute proof of a lack of sufficient incentives,
11 and for the reasons I have already discussed in this testimony, AmerenUE has sufficient
12 incentives. I would also note that Mr. Kind frames the question incorrectly. He frames the
13 question in terms of a sufficient incentive (regardless of prudence) to minimize fuel
14 costs/maximize off-system sales -- i.e. to minimize net fuel costs. Some might suggest that
15 hedging coal and natural gas, and a portion of off-system sales, does not always "minimize"
16 net fuel costs, and that can be true. But it is certainly the Company's opinion as a prudent
17 operator of an electric utility (and our regulators have never indicated otherwise), that
18 appropriate risk management, including hedging, is prudent as opposed to trying to
19 constantly time the market to get the very lowest net fuel costs. Moreover, in the short-run
20 the Company could throw caution to the wind and try to run its power plants beyond what
21 would be prudent to minimize net fuel costs, but I am certain our regulators would not
22 sanction that practice.

1 **Q. Please respond to Mr. Kind's contention that AmerenUE's FAC should**
2 **have "at least" 20% sharing.**

3 A. My response to Mr. Kind's belief, as he characterizes it, is the same as my
4 response to Mr. Brubaker, except that I would note that Mr. Kind's proposal is even more
5 punitive (no 50 basis point cap; "at least" 20%). Again, I must point out that any sharing, by
6 definition, means that *prudently incurred costs* are not recovered by the utility.

7 **Q. Do you agree with Mr. Kind in any respect?**

8 A. In one respect, yes. I agree that injecting these FAC-related issues into this
9 rate case many months after the case began is problematic. While I can appreciate the fact
10 that the Public Counsel does not have a large office, and has incurred budget reductions, any
11 implication that AmerenUE has unlimited time and resources to fully address these issues
12 just three weeks before the evidentiary hearings in this case begin is false. Unlike many
13 parties to a rate case, the Company of course deals with every issue in the case and with
14 every one of the other 17 parties to the case. The FAC in the last case was addressed by 17
15 witnesses and covered three of the 12 days of hearings. Attempting to address the issue now
16 through three rounds of pre-filed testimony within just a 16 day period, two to three weeks
17 before the evidentiary hearings in this case begin, is problematic.

18 **Q. Mr. Kind raises two "concerns" related to the operation of AmerenUE's**
19 **FAC. Do you have any comments on those concerns?**

20 A. I don't, but I would note that AmerenUE witness Jaime Haro addresses both
21 of these "concerns" in detail in his rebuttal testimony filed concurrently with this testimony.

1 **V. SUMMARY AND CONCLUSIONS**

2 **Q. Please summarize your conclusions.**

3 A. The Staff reiterates its recommendation for continuation of the Company's
4 FAC, without substantive change. Staff recognizes that the circumstances and conditions
5 that warranted approval of that FAC, including the sharing mechanism it contains, have not
6 changed in any material way. Rate cases simply cannot be timed to recover net fuel costs in
7 the absence of an FAC, as the Staff appears to recognize. To whatever extent the Staff has
8 had "issues" with other utilities, none of those issues have occurred with AmerenUE, and
9 indeed have nothing to do with AmerenUE, its FAC, or this rate case. AmerenUE and the
10 Staff continue to diligently attempt to accurately estimate a normalized level of net fuel costs
11 to include in base rates and to track against in the FAC. Finally, nothing has changed that
12 warrants now adopting the sharing percentage proposal recycled in this case by Mr. Brubaker
13 (and the similar, but more onerous, proposal made by Mr. Kind). AmerenUE's FAC should
14 be continued, with the existing sharing mechanism, in substantially its current form.

15 **Q. Does this conclude your additional rebuttal testimony regarding**
16 **AmerenUE's fuel adjustment clause?**

17 A. Yes, it does.

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SCHEDULE LMB-FR5

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IS DEEMED HIGHLY CONFIDENTIAL

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IN ITS ENTIRETY