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Witness: Lynn M. Barnes
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MISSOURI PUBLIC SERVICE COMMISSION

CASE NO. ER-2012-0166

SURREBUTTAL TESTIMONY

OF

LYNN M. BARNES

ON

BEHALF OF

UNION ELECTRIC COMPANY
d/b/a Ameren Missouri

St. Louis, Missouri
September, 2012

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OF

LYNN M. BARNES

CASE NO. ER-2012-0166

Q. Please state your name and business address.

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

Q. By whom and in what capacity are you employed?

A. I am employed by Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri" or the "Company") as Vice President, Business Planning and Controller.

Q. Are you the same Lynn M. Barnes who filed direct and rebuttal testimony in this case?

A. Yes, I am.

I. PLANT-IN-SERVICE ACCOUNTING

Q. Why does the Missouri Public Service Commission Staff ("Staff") contend that the Commission should reject Plant-in-Service Accounting?

A. In his testimony, Staff witness John Cassidy makes five contentions in support of his argument that Plant-in-Service Accounting should not be adopted. He contends that: 1) Plant-in-Service Accounting represents single-issue ratemaking; 2) it fails to accurately measure the change in the Company's costs between rate cases; 3) it weakens management's incentive to efficiently control costs; 4) it fails to take into consideration reduced maintenance costs that may result from replacing older and less

reliable equipment and other cost savings, and 5) it fails to address associated accumulated deferred income taxes ("ADIT") relating to investments placed in service between rate cases.

Q. Do you agree with his reasons?

A. No.

Q. Please elaborate.

A. In my rebuttal testimony, I responded to several of these contentions because they were previously raised by Missouri Industrial Energy Consumers' witness Michael Brosch. I will summarize my prior responses here. Specifically, I responded to the single-issue ratemaking assertion, the lack of inclusion of alleged reductions in maintenance expenses due to plant additions, and the lack of inclusion of ADIT in the Plant-in-Service Accounting calculations.

Q. What is your position regarding the contention that Plant-in-Service Accounting is single-issue ratemaking?

A. It is my understanding that single-issue ratemaking is a legal concept, and means that a rate is changed based upon considering only one issue. Plant-in-Service Accounting is no more single-issue ratemaking than accruing Allowance for Funds Used During Construction ("AFUDC"), which is done on every capital project, and it is no more single-issue ratemaking than continuing to accrue AFUDC and deferring depreciation, as the Commission has done in the past when it approved construction accounting. In fact, Plant-in-Service Accounting is not ratemaking at all. Rates from this case would not be changed by the adoption of Plant-in-Service Accounting. Instead, with

respect to sums accrued and deferred through Plant-in-Service Accounting, ratemaking will only take place in a future rate proceeding when all relevant factors *are* considered.

Q. Is your position similar regarding including ADIT in the Plant-in-Service Accounting calculation?

A. Yes. As I explain in my rebuttal testimony, ADIT is an offset to rate base that effectively flows the benefits of accelerated depreciation through to customers. However, accelerated depreciation is designed to encourage investment, so the Commission has not required electric utilities to recognize changes in ADIT until rates are changed; that is, it is the ADIT balance at the time rates are changed that is relevant. Since rates are not changing during the period when assets are placed in service but not included in rate base (the period for which these sums would be deferred if Plant-in-Service Accounting was adopted), it is appropriate to not include ADIT in these deferrals. The ADIT balances would be updated for all rate base changes (including those derived from Plant-in-Service Accounting) as part of the rate-setting process in the Company's next rate proceeding.

Q. Will customers get the full benefit of ADIT balances that exist today in the rates that will be set in this case?

A. Yes, they will. Because of "bonus depreciation" that has been available as part of the government stimulus implemented post-2008 recession, the Company's ADIT balances are high relative to what they had historically been, and the net rate base upon which rates will be set in this case will reflect those higher ADIT balances (making net rate base lower). Consequently, we are properly recognizing the ADIT associated with the net rate base used to set rates in this case. In a future case, when sums accrued and

deferred due to Plant-in-Service Accounting can be capitalized, we will properly recognize the ADIT balances that exist then.

Q. How do you respond to Mr. Cassidy's contention that Plant-in-Service Accounting doesn't take into consideration reduced maintenance costs that may result from replacing older and less reliable equipment?

A. As was the case with Mr. Brosch's similar contention made in his direct testimony, Mr. Cassidy is merely speculating about the impact of the adoption of Plant-in-Service Accounting on the Company's operations and maintenance ("O&M") expense. Even if there were some small decreases in O&M expense related to replacement of specific items of older infrastructure, the rest of the Company's system continues to get older and logic would suggest that O&M expenses would be increasing for those items. The bottom line is that we expect O&M costs for our system as a whole to continue to increase, regardless of whether Plant-in-Service Accounting is adopted.

Q. Another of Mr. Cassidy's reasons for rejecting Plant-in-Service Accounting is that it fails to accurately measure the change in the Company's costs between rate cases and violates the "matching principle." Do you agree with his position?

A. No, I do not. Plant-in-Service Accounting does not violate the matching principle any more than any other deferral mechanism, whether it be a pension tracker, AFUDC associated with all plant under construction, or construction accounting which the Commission has applied to large capital projects. All of these deferrals are included in rates only in the course of a rate case, when all relevant factors can be considered by the Commission. In terms of failing to accurately measure the change to the Company's

costs between rate cases, it is the current system that does not allow the Company to have a reasonable opportunity to recover its increasing costs between rate cases. Plant-in-Service Accounting would mitigate that deficiency in the current ratemaking process.

Q. Mr. Cassidy's final criticism of Plant-in-Service Accounting is that it would weaken management's incentive to efficiently control costs. Is he correct about this?

A. No he is not. The Commission would have the same ability to disallow imprudently incurred costs as it does today—the adoption of Plant-in-Service Accounting would not change that in any way. If Mr. Cassidy is saying that the Company's complete inability to recover its full cost of capital investment acts as an incentive for the Company to be more prudent, he is wrong. All this does is provide a significant financial disincentive for the Company to make beneficial capital investments between rate cases, to the ultimate detriment of customers.

Q. In your direct testimony you provided a calculation of the rate impact of applying Plant-in-Service Accounting to qualifying plant additions from the end of the true-up period in the Company's last rate case (March 31, 2011) until December 31, 2011. Do you have an update to that calculation which would show the impact of Plant-in-Service Accounting on all of the Company's additions from the end of the true-up in the last case (March 31, 2011) until the end of the true-up in this case (July 31, 2012)?

A. Yes. During that period of time, the Company added approximately $637 million in qualifying net plant additions. The lost return and depreciation associated with those net plant additions would be $37.6 million. If Plant-in-Service

Accounting had been in place prior to this rate case, then the addition of the $37.6 million to the net plant additions in this case would have produced an incremental impact on the Company's revenue requirement in this case of just $6.2 million, or approximately .239%. The impact on a typical residential customer's bill would have been approximately $.21/month or just $2.48/year.

II. RATE CASE EXPENSE

Q. What is the Office of Public Counsel's ("OPC") position regarding rate case expense?

A. In his rebuttal testimony, OPC witness Ted Robertson proposes the wholesale disallowance of all outside legal fees, outside advisor fees, and certain outside support services that are currently included in the Company's rate case expense.

Q. What is the reason stated by the OPC for disallowing these rate case expenses?

A. In his testimony, Mr. Robertson states that he believes that these costs are duplicative and higher than they would be if internal employees had performed the same tasks. But he provides no evidence to back up his belief.

Q. Do you agree with the OPC's position?

A. No, I do not. As I stated in my rebuttal testimony, it is reasonable and necessary to use outside consultants and outside counsel who have particular expertise in the rate case issues to prosecute the case before the Commission and against all the various experts retained by the parties in this case who oppose the Company's request. In addition, utilizing external resources in peak times allows us to have better control of our costs rather than embedding a level of internal costs in rates that matches peak need.

Q. You mentioned the need to respond to various experts retained by others. Please explain.

A. While others sometimes try to paint a rate case as a situation where the utility with unlimited resources can overwhelm other parties, the facts paint a totally different picture. By my count, the Staff has presented testimony from more than 20 expert witnesses; the Missouri Industrial Energy Consumers have presented testimony from seven witnesses, and apparently have more than a dozen consultants working on the case (based on non-disclosure agreements filed in the docket); the Office of the Public Counsel has filed testimony from three witnesses; and there are more than 10 non-Company parties to this case. The Company is relying on two inside lawyers and the equivalent of two to three outside lawyers to handle this large and complex case, while at a minimum the other parties, in total, are represented by at least 12 – 15 lawyers. The point I am making is not that there is anything wrong with the number of experts, consultants or lawyers the other parties employ, but to suggest that the Company's internal Legal Department should maintain permanent employees who can handle all aspects of rate cases without outside assistance is completely unreasonable. The Ameren Services Legal Department, which supports, among other entities, Ameren Missouri, Ameren Corporation, Ameren Illinois Company, Ameren Energy Resources Corporation, Ameren Energy Marketing Company, and Ameren Transmission Company, in state and federal regulatory matters, in business and contract matters, in corporate governance matters, in real estate matters and in defense of property damage and personal injury claims against the Company, among other activities, consists of just 16 lawyers. The engineering, finance, and accounting staffs of Ameren Services also support a wide

variety of entities. I can assure the Commission, from my own personal experience and observation, that these employees are fully engaged doing the jobs for which they were hired and have no ability to add Ameren Missouri's rate cases to their duties. OPC ignores this fact and simplistically argues – without any supporting evidence – that because there are lawyers on Ameren Services' payroll that those lawyers are capable of trying this rate case and are available to do so. This contention is without support and must be rejected.

Q. How do you respond to the OPC's assertion that the Commission can disallow costs that are not of benefit to ratepayers without the need for a showing of bad faith or abuse of discretion?

A. It appears that Mr. Robertson's assertion is based on a recent Kansas City Power & Light Company ("KCPL") rate order, where certain rate case expenses were disallowed because KCPL failed to provide evidence in the record of cost containment efforts and thus didn't prove that the expenses (approximately $7.7 million with additional amounts deferred until KCPL's next rate cases) were prudently incurred. That is not the case here. As was noted in my rebuttal testimony, the level of rate case expenses projected for this case is comparable to the expense the Company incurred in the last two rate cases. In addition, the Company follows policies and procedures for procurement of outside services that have resulted in keeping rate case expenses flat over multiple years. Regarding compensation for Concentric Energy Advisors experts, a portion of their fee is for expert testimony of three witnesses, which is necessary to represent the Company's interests against the numerous expert witnesses that are used and hired by the other parties in the case (see above). The remaining portion of

Concentric's fee, which relates to other work performed, is comparable to what the internal costs would be for the additional staff that would need to be hired to do this work, which is only necessary when a rate case is filed. In summary, there is no evidence to support a lack of cost containment efforts by the Company for rate case expense.

Q. You mentioned that rate case costs have been kept flat. Can you elaborate?

A. Yes. While some modest rate increases have occurred over the past several years as our counsels' and consultants' costs have increased, the rates we pay are very reasonable. For example, Smith Lewis, LLP (Jim Lowery and his colleagues) is the Company's primary outside Missouri regulatory counsel. Their net hourly rates for partners are currently just over $200 per hour (associates are less),[1] and over the years the Company has negotiated multi-year rates with Smith Lewis that remain flat for a period of years as part of its cost-containment efforts. The Company also negotiated a specific, lower-than-normal rate for Brydon Swearengen's work on this case.

Q. You mentioned the KCPL rate order. Are there portions of that order not cited by Mr. Robertson that are relevant to the propriety of the Company's rate case expense?

[1] That is only slightly higher than rates this Commission found to be reasonable for outside counsel *eight years ago*, in a Missouri Gas Energy ("MGE") rate case, where the Commission allowed a rate of $200 per hour for MGE's New York law firm (which was actually charging $690 per hour) based upon comparable local rates. Certainly the market for legal services in this specialized area, and the costs law firms incur to provide service have increased since 2004.

A. Yes, there are. The Commission specifically recognized that while shareholders benefit from rate case expense (in that shareholders benefit if necessary rate increases are granted), so do customers. "Ratepayers receive the benefit of reduced cost of borrowing for the Companies if the Companies get sufficient recovery of assets in rates." KCPL Report and Order, Case No. ER-2010-0355, p. 166. Ratepayers also benefit if utilities, like Ameren Missouri, have the resources needed to replace aging infrastructure, maintain the infrastructure and generating units they have, provide good customer service, etc. Rate increases are sometimes (and unfortunately sometimes frequently) necessary for those purposes. The Commission has granted several rate increases for the Company, in each case necessarily concluding that the higher rates were just and reasonable. By definition, customers benefit from just and reasonable rates and rate case expense is necessary to ensure that just and reasonable rates are set.

I would also note that while the Commission disallowed some consultant fees in the KCPL case, it did not disallow attorneys' fees for outside counsel (Morgan, Lewis and Bockius or Schiff Hardin), despite the fact that the Commission found that Schiff Hardin's rates were twice the prevailing rates in Kansas City. And because Morgan, Lewis is an international law firm based on the East Coast, I am sure its rates are also much higher than rates locally.

The bottom line is that Mr. Robertson has not presented any credible evidence that the Company has acted imprudently in utilizing the resources it is utilizing on this case, or has otherwise imprudently failed to contain its rate case costs.

Q. Do you have any other concerns with Mr. Robertson's testimony regarding rate case expense?

A. Yes. First, Mr. Robertson appears to reject the notion that Ameren Missouri's own employees and in-house attorneys who work for Ameren Services are already busy with their own job responsibilities and therefore do not have sufficient time to devote to prosecution of the rate case, as I earlier discussed. My concern is that Mr. Robertson rejects this fact without providing any basis or analysis to support his opinion. While OPC is quick to justify its own hiring of outside consultants to prosecute rate cases with the argument that its resources are limited, Mr. Robertson refuses to accept the fact that Ameren Missouri's and Ameren Services' own resources are similarly limited; because its employees already have sufficient work to do, they are unavailable to prosecute a rate case.

Second, although Mr. Robertson asserts that testimony provided by outside consultants is duplicative, he fails to point to any other Company witness who is providing the same testimony. There is no duplication of testimony by the consultants hired by Ameren Missouri in this rate case.

Finally, the entire premise of Mr. Robertson's testimony is that the Company should not be able to make the decisions about how its rate case is prosecuted. His view is that because Ameren Missouri is a large utility, it should not be able to hire the attorneys it chooses to assist with the rate case or the expert witnesses that Ameren Missouri decides to use to defend itself against the large number of experts who provide testimony on behalf of other parties and then recover the costs for those attorneys and outside experts in this rate case. Because Ameren Missouri bears the burden of proof and because filing and prosecuting a rate case is the only way Ameren Missouri can seek recovery of its prudent, reasonable and necessary expenses, the choice of how that rate

case should be conducted is a choice that fundamentally should be left to the Company—and not Mr. Robertson.

III. STORM COST TRACKER

Q. What is the reason the Staff gives for recommending rejection of the Company's storm tracker?

A. Per Staff witness Kofi Boateng's testimony, the Staff suggests that the Company doesn't need a storm cost tracker because the existing methods of cost recovery that have been utilized by the Company are sufficient.

Q. Do you agree with the Staff's position?

A. No, I do not. While Mr. Boateng is correct that the Company has previously utilized both amortization of excess test year costs in rate cases and accounting authority orders ("AAO") for costs incurred outside of test years, these methods do not allow for timely recovery of storm restoration costs, nor do they allow our customers to receive refunds in cases where storms costs have not exceeded the amount included in the Company's base rates. What Mr. Boateng suggests is that in cases where the Company is not in the middle of a rate case proceeding, a request for an AAO would be granted for any amount that the Company incurs for storm restoration that exceeds the amount that was included in base rates. That theory has not been tested in Missouri. In fact, if the dollar difference between the amount included in the revenue requirement and the amount for a particular storm restoration effort is not significant, the Commission may decide not to grant the Company an AAO. As Staff witness Mark L. Oligschlaeger testified in Case No. EU-2012-0027, "Generally, the Commission in prior cases has stated that the standards for granting the authority to a utility to defer costs

incurred outside of a test year as a regulatory asset are: 1) that the costs pertain to an event that is extraordinary, unusual and unique, and not recurring; and 2) that the costs associated with the event are material." Consequently, the Company is still taking the risk that storm restoration costs incurred in excess of the base amount in rates will not be ultimately recovered. This seems inconsistent with other messages we receive from both our customers and the Commission regarding the level of effort desired to get storm repairs completed as soon as is safely possible.

Q. Does Mr. Boateng offer any other reason for why Staff opposes the storm restoration cost tracker?

A. He did offer additional reasons. Those reasons are addressed in the surrebuttal testimony of Company witness David N. Wakeman.

Q. Does this conclude your surrebuttal testimony?

A. Yes, it does.

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.	)))	**Case No. ER-2012-0166**

AFFIDAVIT OF LYNN M. BARNES

STATE OF MISSOURI)
) **ss**
CITY OF ST. LOUIS)

Lynn M. Barnes, being first duly sworn on her oath, states:

1. My name is Lynn M. Barnes. I work in the City of St. Louis, Missouri, and I am employed by Union Electric Company d/b/a Ameren Missouri as Vice President Business Planning & Controller.

2. Attached hereto and made a part hereof for all purposes is my surrebuttal testimony on behalf of Union Electric Company d/b/a Ameren Missouri consisting of 13 pages and Schedule(s) N/A, all of which have been prepared in written form for introduction into evidence in the above-referenced docket.

3. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct.

Lynn M. Barnes

Lynn M. Barnes

Subscribed and sworn to before me this 7th day of September, 2012.

Julie Donohue

Notary Public

My commission expires:

Julie Donohue - Notary Public
Notary Seal, State of
Missouri - St. Louis City
Commission #09753418
My Commission Expires 2/17/2013