

Exhibit No.:
Issue: Revenue Requirement
Witness: Steven C. Carver
Type of Exhibit: Surrebuttal Testimony
Sponsoring Party: Missouri Industrial Energy Consumers
Case No.: ER-2012-0166
Date Testimony Prepared: September 7, 2012

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

**In the Matter of Union Electric Company,
d/b/a Ameren Missouri's Tariff to Increase
Its Annual Revenues for Electric Service**

)
) **Case No. ER-2012-0166**
) Tariff No. YE-2012-0370
)
)

Surrebuttal Testimony of

Steven C. Carver

Revenue Requirement

On behalf of

Missouri Industrial Energy Consumers

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**STATE OF MISSOURI)
) SS
COUNTY OF JACKSON)**

Affidavit of Steven C. Carver

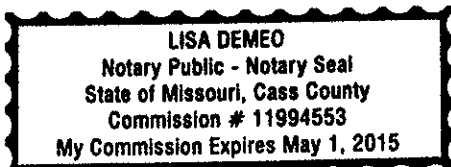
Steven C. Carver, being first duly sworn, on his oath states:

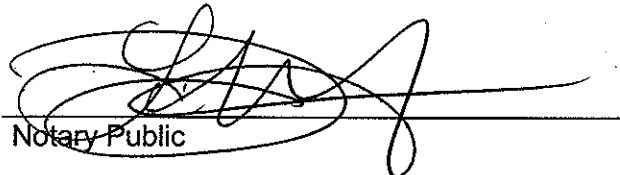
1. My name is Steven C. Carver. I am Vice President of Utilitech, Inc., having my principal place of business at PO Box 481934, Kansas City, Missouri 64148. We have been retained by the Missouri Industrial Energy Consumers in this proceeding on their behalf.
2. Attached hereto and made a part hereof for all purposes is my surrebuttal testimony which was prepared in written form for introduction into evidence in Missouri Public Service Commission Case No. ER-2012-0166.
3. I hereby swear and affirm that the testimony is true and correct and that it shows the matters and things that it purports to show.



Steven C. Carver

Subscribed and sworn to before me this 6th day of September, 2012.





Notary Public

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**Table of Contents to the
Surrebuttal Testimony of Steven C. Carver**

Expiring Amortizations2

Voluntary Separation Adjustment3

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Surrebuttal Testimony of Steven C. Carver

1 **Q PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A My name is Steven C. Carver. My business address is PO Box 481934, Kansas City,
3 Missouri 64148.

4 **Q ARE YOU THE SAME STEVEN C. CARVER WHO PREVIOUSLY SPONSORED**
5 **DIRECT TESTIMONY ON BEHALF OF THE MISSOURI INDUSTRIAL ENERGY**
6 **CONSUMERS ("MIEC")?**

7 A Yes. My qualifications were set forth in Appendix A to my Direct Testimony that was
8 previously submitted in this proceeding.

9 **Q WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?**

10 A My testimony is responsive to Ameren Missouri's rebuttal witness Ms. Barnes regarding
11 the Voluntary Separation issue.

1 **EXPIRING AMORTIZATIONS**

2 **Q ARE YOU PROPOSING ANY CHANGES TO THE RATE CASE ADJUSTMENTS AND**
3 **POSITIONS THAT WERE SET FORTH IN YOUR DIRECT TESTIMONY?**

4 A No. My direct testimony addressed several adjustments that I sponsored relative to the
5 Company's direct filing. I continue to support those adjustments. It should be noted,
6 however, that the rebuttal testimonies of Company witnesses Gary Weiss (pages 26-27)
7 and Laura Moore (pages 50-51) largely accepted my expiring amortization
8 recommendations with two exceptions. First, Mr. Weiss has proposed handling the
9 Vegetation Management/Infrastructure Tracking item as part of the true-up to capture
10 additional deferrals recorded subsequent to the test year. Otherwise, Mr. Weiss'
11 proposed treatment is the same as proposed in my direct testimony.

12 Second, although the rebuttal testimony of Ms. Moore at page 50 seems to imply
13 the existence of a large difference between the Company and MIEC regarding the
14 intangible plant amortization adjustment,¹ the real difference between us on this issue is
15 an immaterial \$7,000. The remainder of the difference is merely due to the Company
16 electing to remove nine items with expired amortizations as part of the true-up process²
17 that I removed by ratemaking adjustment.³ A \$7,000 difference is not a material
18 difference and shows substantial agreement between the Company and MIEC.

19 At the time this testimony was prepared, MIEC had not yet fully reviewed and
20 analyzed the Company's true-up filing. Subject to confirmation of the treatment of these
21 items in that true-up filing, the original amortization adjustments that I sponsored of
22 \$(4.2) million (Schedule SCC-1) and \$(1.1) million (Schedule SCC-2) to the Company's

¹Ms. Moore agrees with an intangible plant amortization adjustment of \$(597,000) as compared to an MIEC adjustment of about \$(1.1) million (see Direct Schedule SCC-2, page 1).

²In response to MIEC Data Request Nos. 23.33 and 23.34, Ameren Missouri confirmed that the amortization expense related to the intangible assets that had been fully amortized would be excluded as part of the true-up filing.

³See Direct Schedule SCC-2, lines 10-11 and 13-19.

1 direct filing would only be affected by Mr. Weiss' true-up revision to the Vegetation
2 Management/Infrastructure Tracking item.

3 **VOLUNTARY SEPARATION ADJUSTMENT**

4 **Q DID THE COMPANY AGREE WITH YOUR PROPOSED ADJUSTMENT TO**
5 **ELIMINATE THE THREE-YEAR AMORTIZATION OF THE COST OF THE**
6 **VOLUNTARY SEPARATION ELECTION?**

7 A No. Subsequent to the test year ending September 2011, Ameren Missouri offered a
8 Voluntary Separation Election ("VS11") to employees and incurred VS11-related costs of
9 \$25,755,000. In assembling its direct, Ameren Missouri witness Weiss⁴ proposed an
10 adjustment to amortize these severance costs over a three-year period and discussed
11 several VS11-related adjustments to reduce payroll expense, employee benefits and
12 taxes other than income taxes.⁵ MIEC Schedule SCC-3, appended to my direct
13 testimony, proposed to eliminate the Company's amortization adjustment from overall
14 revenue requirement because Ameren Missouri will have effectively recovered the one-
15 time cost of VS11 through retained savings by the time the rates resulting from this case
16 are implemented. Staff also proposed to eliminate the adjustment for the same reason.

17 In rebuttal testimony, Company witness Lynn Barnes (pages 15-17) disagrees
18 with Staff's proposed elimination of Ameren Missouri's VS11 amortization.⁶ Basically,
19 Ms. Barnes argues that the VS11 amortization should be allowed for several reasons:

⁴See Weiss' Direct Testimony, pages 22-23 and 31.

⁵See Weiss' Direct Testimony at pages 22-23 (Expense Adjustment #5), 27 (Expense Adjustment #26), 31 (Amortization Adjustment #13) and 33 (Taxes Other Than Income Taxes Adjustment #1).

⁶It should be noted that Ms. Barnes' rebuttal testimony directly refers to pages 100-101 of the Staff Report and only makes passing mention that MIEC filed direct testimony on this issue. See pages 25-38 of my direct testimony for the basis of MIEC's proposed elimination of the VS11 amortization.

- 1 • VS11 was a business decision to manage costs and the Company should be
2 allowed to benefit by those reduced costs until rates are reset. (pp. 15-16)
- 3 • The Company acted prudently by offering VS11, resulting in the payment of
4 severance costs and an ongoing reduction in labor costs that customers will
5 realize for years to come. (p. 16)
- 6 • If taking steps like this is to substantially reduce costs only to be given fully to
7 customers, then there is little incentive for the Company to take these types of
8 cost-cutting actions. (p. 16)
- 9 • Disallowing the severance costs would be poor regulatory policy. (p. 16)
- 10 • If one looks back prior to 2012, one will see a much different picture. From
11 March 2009 through the true-up date, the Company has under-recovered its
12 payroll and benefit costs by approximately \$84 million. (p. 17)
- 13 • Disallowing the amortization of the severance costs only exacerbates this
14 under-recovery and removes any incentive for the Company to reduce costs
15 through future severance programs. (p. 17)

16 **Q HOW DO YOU RESPOND?**

17 A As stated in my direct testimony, there is no question that Ameren Missouri incurred
18 upfront costs to implement VS11, and that VS11 has resulted in expense reductions or
19 savings. In fact, Ms. Barnes' rebuttal testimony at page 17 admits that "...it is true that
20 the savings realized in 2012 roughly equal the severance costs..." So, it would seem
21 that the issue is not really whether the Company should be allowed to recover these
22 costs, because the costs will be recovered through retained savings, but whether
23 Ameren Missouri should receive a bonus by being allowed to recover these costs a
24 second time.

25 Starting in July 2006, the Company has filed five rate cases with an average of
26 seventeen (17) months between rate filings.⁷ As a result, Ameren Missouri cannot claim
27 a lack of recent familiarity with the ratemaking process before this Commission. At the

⁷See the table on page 15 of my direct testimony.

1 time Ameren Missouri management decided to offer VS11 in October 2011,⁸ the
2 Company knew, or should have known, that the costs and benefits associated with any
3 management decision that involved one-time costs of \$25 million would receive close
4 scrutiny; that the annualized cost reductions would be reflected in ongoing revenue
5 requirements in any filed rate case; that the Company would be filing another rate case
6 in the near future;⁹ and that non-recovery of the one-time costs could result if substantial
7 costs savings were realized and retained by the Company.

8 Cost-based ratemaking aside; Ms. Barnes seems to be imploring the
9 Commission to provide the Company with a bonus or form of incentive above its costs in
10 order to continue the provision of safe and adequate service at just and reasonable
11 rates. Since the Company will have fully recovered the cost of VS11 through retained
12 savings by the time the rates resulting from this case go into effect, I can think of no
13 better description of Ms. Barnes' request than a bonus by allowing the Company to
14 double-recover those costs – once through savings retained by Ameren Missouri in 2012
15 and again through the prospective amortization sought by Ameren Missouri.

⁸See the Ameren press release of October 21, 2011, provided as Attachment B to my direct testimony.

⁹On November 28, 2011, about five weeks after the October 21, 2011 press release concerning the VS11 offering, Ameren Missouri filed a NOTICE OF LIKELY CONTESTED CASE with the Commission.

1 **Q** **AT PAGE 17 OF HER REBUTTAL TESTIMONY, MS. BARNES CLAIMS THAT,**
2 **DURING THE PERIOD MARCH 2009 THROUGH THE JULY 2012 TRUE-UP IN THIS**
3 **CASE, THE COMPANY’S RATES HAVE RESULTED IN THE UNDER-RECOVERY OF**
4 **PAYROLL AND BENEFIT COSTS BY APPROXIMATELY \$84 MILLION. DO YOU**
5 **BELIEVE THAT THIS CLAIMED UNDER-RECOVERY JUSTIFIES ALLOWING**
6 **AMEREN MISSOURI TO DOUBLE-RECOVER THE VS11 COSTS?**

7 **A** No. Surely Ms. Barnes is not suggesting that current rates should be increased to allow
8 the Company to recover some labor and benefit costs it claims to have under-recovered
9 in prior years. If that is what Ms. Barnes is proposing, I could not disagree more
10 strongly.

11 **Q** **WHY IS THAT?**

12 **A** Two of the most fundamental concepts underlying utility the ratemaking process are the
13 matching principle and the prohibition against retroactive ratemaking. Ms. Barnes
14 addresses the matching principle in the fuel adjustment clause section of her rebuttal
15 testimony at page 13, in an excerpt from a 2004 Commission order:

16 [O]ne aspect of the Matching Principle is to match revenues and
17 expenses with the period in which they were incurred. However, under
18 another aspect of the Matching Principle, *‘ratepayers are charged with the*
19 *costs of producing the service they receive.’* [footnote omitted] The
20 purpose is to match costs with benefits so that the ratepayers that enjoy
21 the benefits of utility property also bear the costs thereof. [footnote
22 omitted] (emphasis added)¹⁰
23 [Rebuttal Testimony of Ameren Missouri witness Barnes, p. 13]

24 Interestingly, Ms. Barnes’ rebuttal testimony on the VS11 issue would have this
25 Commission ignore the matching principle by intentionally not matching costs with
26 benefits. A matching of VS11 costs with related benefits, as effectively proposed by the
27 Staff and MIEC, would result in no unrecovered VS11 costs that require amortization.

¹⁰ ***In re Missouri-American Water Co.***, Case No. WO-2002-0273, 237 P.U.R.4th 353 (Mo. P.S.C. Nov. 10, 2004).

1 In general terms, retroactive ratemaking prohibits a public utility commission from
2 setting future rates by allowing a utility to recover past losses or requiring a refund of
3 past excess profits collected under approved rates. Past losses and excess profits can
4 arise when actual revenues do not perfectly match expenses plus a return on
5 investment.

6 By suggesting that the Staff and MIEC should “recognize the fact that over the
7 past 3 years the Company has significantly under-recovered its payroll costs”,¹¹ a
8 concern certainly arises as to whether the Company is seeking a current consideration
9 of past under-recoveries, or losses, that may run afoul of the retroactive ratemaking
10 prohibition.

11 The rebuttal testimony of several Ameren Missouri witnesses¹² have also argued
12 that customers pay for service provided by the Company but they do not pay for costs,
13 except for tracked fuel costs. Contrary to Ms. Barnes’ \$84 million under-recovery
14 argument, Mr. Weiss addresses this point in his discussion of the property tax refund
15 issue:

16 Once rates are set, due to regulatory lag a utility may receive revenues
17 that are more than assumed, or less. If a particular item of expense turns
18 out to be less than assumed, the Company benefits, just as if a certain
19 item of expense turns out to be more than assumed the Company bears
20 the higher cost.

21 [Rebuttal Testimony of Ameren Missouri witness Weiss, p. 28]
22

23 Mr. Weiss’ position is echoed by Mr. Wills, in discussing the Entergy Refund
24 issue:

25 Typically when costs vary after rates are set, the utility and its
26 shareholders bear the burden of increases in costs above those included
27 in rates and also retain the benefits of reductions in costs.

28 [Rebuttal Testimony of Ameren Missouri witness Wills, p. 27]
29

¹¹See the rebuttal testimony of Ameren witness Barnes (p. 17).

¹²See the rebuttal testimony of Ameren witnesses Gary Weiss (p. 28) and Steven Wills (pp 26-27).

1 However, Ms. Barnes' rebuttal testimony at page 17 is critical of the Staff and
2 MIEC for not recognizing the claimed \$84 million under-recovery and exacerbating this
3 under-recovery by disallowing the amortization of the VS11 severance costs. However,
4 in Data Requests MIEC 23.21, 23.22 and 23.25, the Company was asked to confirm that
5 certain costs were or were not included in then-current rates or whether certain costs
6 should be double-recovered through rates. Responding on behalf of the Company, Ms.
7 Barnes declined to confirm whether certain costs were/were not included in then-current
8 rates, arguing that labor costs and other historical costs are not included in rates.
9 Rather, Ms. Barnes seems to contend that customers merely pay just and reasonable
10 rates for electric service. Such responses are perplexing given Ms. Barnes' claim in
11 rebuttal testimony that the Company has under-recovered labor and benefit costs by
12 about \$84 million since early 2009. Either costs are included in the determination of
13 utility rates and one can attempt to quantify the extent to whether those rates allowed
14 adequate cost recovery or costs are not included in rates making such a determination
15 impossible.

16 After reviewing the Company's tangled cost recovery theories, I would urge the
17 Commission to adopt the recommendations of the Staff and MIEC by denying Ameren
18 Missouri's proposed amortization of the one-time costs of implementing VS11.

19 **Q HAVE YOU REVIEWED THE DOCUMENTATION RELIED UPON BY MS. BARNES**
20 **FOR THE \$84 MILLION UNDER-RECOVERY CLAIM?**

21 **A**Yes. Ameren Missouri's Caseworks Extranet website included a rebuttal workpaper¹³ of
22 Mr. Weiss that supported the \$84 million under-recovery claimed by Ms. Barnes. Mr.
23 Weiss' workpaper compares the amount of labor and benefits expense included in each

¹³Mr. Weiss' workpaper was provided in spreadsheet file format as "Ameren_1-UE_REB_024_Weiss-Att-Labor and Other Benefits- compare actual expense in rate order.xls".

1 of the last three rate cases (ER-2008-0318, ER-2010-0036 and ER-2011-0028) with the
2 actual labor and benefits expense recorded by the Company in the 12 months following
3 the implementation of the rates resulting from those rate cases.

4 In my opinion, the \$84 million amount is misleading in that the actual labor
5 expenses include incentive compensation costs that were intentionally and explicitly
6 excluded from rates in those rate proceedings. The implication of this approach to
7 calculating the claimed under-recovery is that Ms. Barnes' definition of under-recovered
8 costs would include costs that utility rates were never designed to recover, but Ameren
9 Missouri nevertheless chose to incur. If those incentive compensation costs are
10 excluded, as calculated within Mr. Weiss' workpaper, the \$84 million under-recovery
11 becomes a \$51 million under-recovery – a decrease of \$33 million.

12 **Q CAN YOU IDENTIFY THE KEY FACTORS THAT CAUSED THE \$51 MILLION**
13 **UNDER-RECOVERED AMOUNT?**

14 **A** No. As part of my review and analysis of Mr. Weiss' workpapers, a series of data
15 requests were included in MIEC's 23rd set of discovery in order to identify factors that
16 may have materially contributed to the claimed \$51 million under-recovery. In response
17 to Data Request MIEC 23.22, the Company only identified wage and salary increases
18 granted subsequent to each rate case.

19 Data Request MIEC 23.18 sought additional detailed information to verify the
20 inputs into the Company's under-recovery analysis and to identify other changes that
21 might have contributed to the under-recovery, including: changes in the allocation of
22 labor and benefit costs between O&M and capital accounts; changes in the costs and
23 factors used to allocate costs to Ameren Missouri; monthly fluctuations in labor and
24 benefit costs; and changes in employee levels. Only a partial response to this data
25 request was provided by the Company.

1 In my opinion, the ratemaking process should not be criticized as being
2 insufficient for changes occurring subsequent to the test year/true-up period associated
3 with revised allocation factors, granting of wage and salary increases, hiring of new
4 employees or other management decisions that increased costs subsequent to the rate
5 case. Management knew or should have known that the costs incurred by those
6 decisions were not included in then-current rates and presumably was comfortable with
7 the financial impact of those decisions at the time they were made.

8 **Q DID YOU RECEIVE INFORMATION IN RESPONSE TO DATA REQUEST MIEC 23.18**
9 **NECESSARY TO QUANTIFY WHETHER ANY OF THE IDENTIFIED FACTORS**
10 **MATERIALLY CONTRIBUTED TO THE CLAIMED UNDER-RECOVERY?**

11 A No. Ameren Missouri did provide information to confirm the inputs into Mr. Weiss'
12 workpaper, but objected to most of the information sought by Data Request MIEC 23.18.
13 As a negotiated resolution of this discovery dispute, Ameren Missouri agreed to state
14 that compiling the response to this data request would be burdensome and would
15 require 20-24 hours of work. In addition, Ameren Missouri agreed to state that the
16 Company has not performed any review or analysis beyond that reflected in Mr. Weiss'
17 workpaper. So, we are left with a claimed \$51 million under-recovery and with no
18 information as to the key factors that might have contributed to that deficiency.

19 **Q HAVE YOU ATTEMPTED TO IDENTIFY ANY OF THE KEY FACTORS THAT MIGHT**
20 **HAVE CONTRIBUTED TO AMEREN MISSOURI'S CLAIMED UNDER-RECOVERY OF**
21 **LABOR AND BENEFITS COSTS THROUGH OTHER DATA SOURCES?**

22 A Yes. Some regulated utilities prepare detailed budget variance reports with extensive
23 narrative explanations of the key factors contributing to those variances. While budget
24 variance reports would not directly address Ms. Barnes' claimed under-recovery, it was

1 anticipated that Ameren Missouri's budget variance reports might serve as a possible
2 source to identify unexpected events or costs contributing to the point raised by the
3 Company in rebuttal testimony. After again reviewing the highly confidential
4 attachments to Data Request MIEC 6.3, which requested a copy of the monthly budget
5 variance reports for 2011 and 2012, I concluded that no useful explanatory information
6 could be determined from those documents.

7 **Q DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?**

8 **A** Yes.