

Exhibit No.:

Issues: *EEL Dues, Property Tax
Refund, Property Taxes,
Misc. Dues and Donations,
Misc. Expenses*

Witness: *Erin M. Carle*

Sponsoring Party: *MoPSC Staff*

Type of Exhibit: *Surrebuttal Testimony*

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MISSOURI PUBLIC SERVICE COMMISSION

REGULATORY REVIEW DIVISION

UTILITY SERVICES - AUDITING

SURREBUTTAL TESTIMONY

OF

ERIN M. CARLE

**UNION ELECTRIC COMPANY,
d/b/a Ameren Missouri**

CASE NO. ER-2012-0166

*Jefferson City, Missouri
September 2012*

Staff Exhibit No. *218*

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EXHIBIT 218

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SURREBUTTAL TESTIMONY

OF

ERIN M. CARLE

**UNION ELECTRIC COMPANY,
d/b/a Ameren Missouri**

CASE NO. ER-2012-0166

Q. Please state your name and business address.

A. Erin M. Carle, 111 N. 7th Street, Suite 105, St. Louis, MO 63101.

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

A. I am employed by the Missouri Public Service Commission ("Commission") as a Utility Regulatory Auditor in the Auditing Unit of the Utility Services Department, Regulatory Review Division.

Q Are you the same Erin M. Carle who contributed to the Missouri Public Service Commission Staff's ("Staff") Revenue Requirement Cost of Service Report ("Staff Report") and also filed rebuttal testimony in this case?

A. Yes, I am.

Q. What is the purpose of your surrebuttal testimony in this proceeding?

A. My surrebuttal testimony will respond to the rebuttal testimony of Union Electric Company, d/b/a Ameren Missouri ("Company") witness Gary S. Weiss regarding Edison Electric Institute ("EEI") dues, miscellaneous dues and donations, miscellaneous expenses, and the property tax refund issue. My testimony will also respond to the rebuttal testimony of Company witness Chris L. Cudney regarding the issue of property taxes.

EEI DUES

Q. Did Ameren Missouri include an adjustment as part of its direct filed cost of service calculation to remove any portion of the EEI dues related to lobbying activities?

A. No. During the test year, the Company incurred \$537,460 of expense for payment of its EEI dues, but made no adjustment as part of its direct filed case to remove any portion of this expense as pertaining to lobbying activities. However, in his rebuttal testimony, Mr. Weiss now indicates on page 19, lines 20 through 23, and page 20, lines 1 through 4, that the Company inadvertently failed to remove \$116,490 as the appropriate portion of EEI dues attributable to lobbying. Mr. Weiss now proposes to reduce the Company's cost of service calculation by this amount for EEI dues that should be disallowed due to lobbying activities.

Q. Does Company witness Weiss' rebuttal position to reduce the cost of service calculation by \$116,490 for lobbying activities associated with the Company's EEI dues resolve Staff's concerns on this matter?

A. No. In his rebuttal, Mr. Weiss has not provided any support for this lobbying amount. Therefore, Staff has no way to verify that the \$116,490 actually covers the full lobbying portion of EEI dues.

Q. Does Staff believe that the remaining portion of EEI dues, excluding the lobbying portion, should be included in the cost of service calculation?

A. No. While Company witness Weiss lists in his rebuttal testimony multiple projects and activities that EEI is involved in, he has provided no support on how much of the membership fee is attributable to each activity. Furthermore, Company witness Weiss has failed to quantify the benefits received from its customers and shareholders, respectively, as required per the Commission's Orders issued in Kansas City Power and Light Company ("KCPL")

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Case Nos. ER-82-66, ER-83-49 and EO-85-185. The Company bears the burden of proof in proving the benefit to the ratepayer for this cost and has failed to do so in this rate proceeding.

Q. Does Staff believe that Ameren Missouri's association with EEI provides no benefit to ratepayers?

A. No. After reviewing EEI's website during the initial audit and reading the rebuttal testimony of Company witness Weiss, Staff believes that there may be benefits to ratepayers, but there are also benefits to the Company and its shareholders. However, it is the Company's failure to quantify the benefits and allocate the costs of EEI membership in line with the quantified benefits to shareholders and ratepayers' that has led to Staff's proposed total disallowance of EEI dues. Staff has adhered in this proceeding to prior case precedent established by this Commission as part of KCPL Case Nos. ER-82-66, ER-83-49 and EO-85-185. As part of Case No. ER-82-66, the Commission stated the following as part of its *Report and Order*:

KCPL included \$105,000 of its EEI dues in Missouri jurisdictional cost of service...The Staff and Office of Public Counsel oppose the recovery of this expense from the ratepayers on two levels. First, both contend that EEI is a lobbying organization whose primary objective is to promote shareholder interests, and therefore the expense should be disallowed. Second, both question the existence of any benefits accruing to the ratepayers from EEI activities...The Commission still believes the question is one of benefit to the ratepayer. In the instant case there appears to be some possible benefit, but until the Company can better quantify the benefit and the activities that were the causal factor of the benefit, the Commission must disallow EEI dues as an expense. The Commission also points out that the Company needs to develop some method of allocating expenses between its shareholders and the ratepayers once the benefits and activities leading thereto have been adequately quantified.

Q. Company witness Weiss states in his rebuttal testimony on page 12 that, "Ms. Carle basically relies on Commission rate orders (Case No. ER-83-49 and Case No.

EO-85-185) for Kansas City Power & Light Co. that are more than 25 years old.” Does Staff see any reason to deviate from prior Commission precedent?

A. No. The Commission may modify or amend their prior issue decisions in subsequent cases based upon additional information or considerations. There has been no such modification or amendment issued by the Commission regarding EEI dues and their treatment since the Commission orders for the aforementioned cases were determined. In the Commission’s *Report and Order* in Case No. ER-83-49, the Commission states that EEI dues:

...would be excluded as an expense until the company could better quantify the benefit accruing to both the Company’s ratepayers and shareholders.

Staff contends that Ameren has failed to quantify the benefit to the ratepayers as required in the orders issued in Case Nos. ER-82-66, ER-83-49 and EO-85-185.

Q. Did the Staff request the Company to provide a cost allocation of EEI dues based upon benefit to ratepayer and benefit to shareholder?

A. Yes. In the current case, Staff Data Request No. 171 asked the Company to provide the following information:

Please provide a detailed description of the services that are provided by Edison Electric Institute. Please include a percentage of billings for each service or benefit from EEI. Of these services or benefits, please provide what is received by Ameren Missouri and what is received for the benefit of the ratepayer.

The Company’s response was a narrative of benefits that EEI membership provides which was primarily taken from EEI’s website. This same information appears in Company witness Weiss’s rebuttal testimony on pages 14 through 19. However, the Company has not provided adequate justification for inclusion of the EEI dues in either its response to Staff Data Request No. 171 or in Company witness Weiss’s rebuttal testimony.

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1 Q. Does the Company witness Weiss admit that he has not provided the necessary
2 quantification of benefits as required by the Commission's previous orders with regard to this
3 issue?

4 A. Yes. On page 19, lines 14 through 19 of his rebuttal testimony, Mr. Weiss states
5 the following:

6 Q. Can you quantify the exact value of {sic} all of these many benefits?

7 A. It is impossible to do so for each member utility in EEI, but it is
8 obvious, given the very substantial benefits EEI membership provides and
9 the relatively small sum of EEI membership fees Ameren Missouri seeks
10 to include in the revenue requirement (just \$420,970), that Ameren
11 Missouri's customers receive benefits from the EEI membership that
12 greatly exceed the membership fees.

13 Q. Does Staff Data Request No. 171 represent its first attempt to obtain from the
14 Company an adequate quantification of benefits ratepayers receive for these activities?

15 A. No. the Staff has submitted similar data requests in Ameren Missouri Case Nos.
16 ER-2011-0028 (Staff Data Request No. 202) and ER-2010-0036 (Staff Data Request No. 219).
17 The Company response to each of these data requests failed to provide an adequate
18 quantification of the benefits or a percentage breakdown between ratepayers and shareholders in
19 each instance.

20 Q. Has Staff included the costs associated with the trainings that are above and
21 beyond the EEI membership fee?

22 A. Yes. Staff has included the costs that Ameren Missouri pays to EEI for its
23 employees' to attend specific training sessions. These session fees are charged separately from
24 the overall membership fee paid to be a part of EEI.

25 Q. Please summarize the Staff's position with regard to EEI dues.

26 A. While there may be some ratepayer benefits received from participation in the
27 various activities listed by Mr. Weiss in his rebuttal testimony and in response to Staff Data

1 Request No. 171, Staff has not been provided a quantification of benefits that the ratepayer has
2 received. Furthermore, Staff is not able to determine the allocation of EEI dues to activities that
3 benefit the ratepayers and to activities that benefit the shareholder. Therefore, the Company has
4 failed to comply with prior Commission precedent and the Staff recommends that
5 the Commission disallow the \$537,460 level of EEI dues incurred by the Company during the
6 test year.

7 **PROPERTY TAX REFUND**

8 Q. What level of property tax expense was built into rates as part of Ameren
9 Missouri's previous rate case, Case No. ER-2011-0028?

10 A. The Commission included approximately \$28.9 million of property tax expense in
11 rates that were effective on July 31, 2011.

12 Q. Did Ameren Missouri file an appeal before the Missouri State Tax Commission to
13 receive a partial refund for this \$28.9 million level of property tax expense?

14 A. Yes. Ameren Missouri appealed this level of property tax and was
15 awarded approximately a \$2.9 million refund which it received between the period covering
16 August 30, 2011, through February 13, 2012.

17 Q. Does Staff agree with Company witness Weiss's position described on pages 27
18 through 29 in his rebuttal testimony that the approximate \$2.9 million property tax refund should
19 not be returned to the ratepayers?

20 A. No. Staff believes that the ratepayers paid for a \$2.9 million level of property tax
21 expense that Ameren Missouri ultimately received back in the form of a refund. Therefore, the
22 ratepayers should receive the benefit associated with this \$2.9 million property tax refund.

Furthermore, as Staff has previously indicated on page 117 of the Staff Report filed on July 6, 2012, the Commission's *Report and Order* from Case No. ER-2011-0028 stated that:

The only question before the Commission at this time is whether to order Ameren Missouri in this case to return any tax refund it may receive to its customers. There is no disagreement about Ameren Missouri's duty to track that refund. If Ameren Missouri does receive a tax refund, then the Commission would certainly expect that the company would return that refund to its customers who are ultimately paying the tax bill. It is hard to imagine a circumstance in which such a refund would not be ordered. However, such an order must wait until a future rate case in which that decision will be presented to the Commission.

Any such order the Commission could issue in this case would be ineffective, as this Commission cannot bind a future Commission. At this time, the Commission can only order Ameren Missouri to track any possible refund. A decision about how any such tax refund is to be handled must be left to a future rate case.¹

The Staff's interpretation of the Commission's order issued during the previous Ameren Missouri rate case was that any refund that Ameren Missouri may receive as a result of their property tax appeal before the Missouri State Tax Commission would be returned to the ratepayers. The refund is a result of that appeal and reflects the return of costs previously included in rates and paid for by ratepayers. Therefore, the ratepayers are entitled to this refund.

Q. Does Company witness Weiss's arguments found on page 28 on lines 16 through 18 of his rebuttal testimony, that "it is inappropriate" to consider the change in revenues derived from "a single cost item, while ignoring the much greater increases in other cost items" (i.e. that it represent single-issue ratemaking), contradict the Company's position on other issues in this rate proceeding?

A. Yes. Mr. Weiss's argument that the Staff's proposed treatment of flowing back the refund to ratepayers somehow represent single-issue ratemaking contradicts the positions

¹ *Report and Order*, pp. 110-111.

1 advocated by Company witnesses Lynn M. Barnes, Warner L. Baxter and John J. Reed with
2 regard to their Plant-In-Service accounting proposal, which Staff asserts clearly constitutes
3 single-issue ratemaking. In contrast, the Staff maintains that returning the property tax refund
4 over two years to the ratepayers does not represent single issue ratemaking. The Staff contends
5 that the \$2.9 million amount that the Company received as a refund was previously built into
6 rates and was paid by the ratepayers. Staff further contends that this refund was received during
7 the test year and true-up period established by the Commission in this rate proceeding. Given
8 the Commission's order in the previous case and the aforementioned reasons, the Staff contends
9 it is proper for this Commission to order the Company in this case to return this property tax
10 refund to the ratepayers.

11 Q. Is Staff still proposing a two-year amortization of the refund amount as was
12 mentioned in their Cost of Service Report on page 117?

13 A. Yes. Staff believes that a two-year amortization is a reasonable method to return
14 to the ratepayers the \$2.9 million property tax refund which Ameren Missouri received during
15 the test year and true-up period established by the Commission in this rate proceeding.

16 **PROPERTY TAX EXPENSE**

17 Q. Company witness Chris L. Cudney indicates the Company disagrees with Staff's
18 calculation of property tax expense in its cost of service recommendation. Please explain how
19 Staff arrived at their value.

20 A. Staff used the actual values paid in December 2011 as the annualized ongoing
21 value for the property tax expense. Based upon this approach, Staff has included \$127.2 million
22 as the appropriate level for inclusion in the cost of service calculation.

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1 Q. What level of property tax expense did the Company propose as part of their
2 direct filed case?

3 A. During the test year, the Company incurred \$129.7 million for property taxes. In
4 his direct testimony, Company witness Weiss proposed that \$140.0 million was the appropriate
5 level of property tax expense to include in the cost of service based on certain assumptions.
6 Specifically, Mr. Weiss proposed two adjustments in developing his \$140.0 million annualized
7 level. The first adjustment was to increase property taxes by approximately \$9.0 million based on
8 2012 budgeted levels of this expense. Mr. Weiss's second adjustment reflected increased
9 property taxes for the addition of Ameren Missouri's Maryland Heights renewable energy center.

10 Q. Has Company revised its direct testimony position on property taxes as part of its
11 rebuttal testimony filing?

12 A. Yes. In her rebuttal testimony Company witness Cudney is sponsoring a revised
13 annualization for property tax expense for inclusion in the cost of service calculation.
14 Ms. Cudney proposes a normalized tax rate increase based upon the actual history of increases in
15 property tax rates that Ameren Missouri has experienced over the past three years and
16 recommends applying this proposed normalized increase against the January 1, 2012 assessed
17 value that was provided by the Missouri State Tax Commission's on June 28, 2012.
18 Ms. Cudney's calculations produce a normalized level of approximately \$130.4 million for
19 Ameren Missouri's 2012 property tax expense. It is unclear whether or not Ms. Cudney or
20 Mr. Weiss still propose to include property tax expense related to the Maryland Heights
21 renewable energy center in their case, since no Company witness filed rebuttal testimony in
22 support of that position as was presented in Mr. Weiss's direct testimony.

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1 Q. Does Staff agree with the new method now proposed by Company witness
2 Cudney in her rebuttal testimony?

3 A. No. Staff believes that Ms. Cudney's proposed normalization violates the known
4 and measurable standard that has consistently been used by the Commission over the years.
5 There is a chance that Ameren Missouri's property taxes may either increase or decrease in total.
6 A known expense is an expense that has actually occurred or will be incurred based upon known
7 evidence. While it is now known what the 2012 assessed values for Ameren Missouri's property
8 will be, it is not known at this time what tax rate will be applied to that property for purposes of
9 determining Ameren Missouri's property tax bill. The Company's approach is to assume that
10 2011 property tax rates will be unchanged for 2012. Until the tax bill is actually issued, there is
11 no way to "know" what the applicable property tax rate will be, or that an increase in property
12 tax rates is going to occur. The measurable portion of the standard would be violated because
13 there is no way that Staff, nor Ameren Missouri, can calculate the level of increase or decrease in
14 property tax rates until the actual bill arrives. Therefore, it is not a measureable expense. A
15 measurable expense is an expense that the rate impact of the change can be calculated with a
16 high degree of accuracy. The property tax expense for 2012 will not be a "known and
17 measurable" expense until at the earliest November 2012, which is well beyond the true-up
18 cut-off date for this case.

19 Q. Has a similar property tax issue previously been ruled on by the Commission?

20 A. Yes. In Case No. WR-2000-844, St. Louis County Water Company, Staff
21 proposed to use the last actual tax payment as the most appropriate method to annualize
22 property tax expense. The Company proposed to calculate the ratio of plant-in-service at
23 December 31, 1999, to the property tax paid on that plant, and then apply that ratio to

1 plant-in-service on December 31, 2000.² This proposal is very similar to the proposal being
2 made in this case by Ameren Missouri.

3 In Re: *St. Louis County Water Company*, Case No. WR-2000-844, et al., Report and
4 Order, 10 Mo. P.S.C. 3d 268 (2001), the Commission stated:

5 The Commission traditionally, and properly, allows recovery of cost
6 increases that are projected to occur after the end of the test year
7 (including any adjustment periods) only if those costs are known and
8 measurable. A cost increase is "known" if it is certain to occur, and it is
9 "measurable" if the Commission is able to determine the amount of the
10 increase with reasonable precision. The Company's projected property tax
11 increases are neither known nor measurable. While it is probable that the
12 Company will experience an increase in property tax expense at the end of
13 the year, it is by no means certain. Even more damaging to the
14 Company's proposal is the fact that its best estimate of the amount of any
15 increase is based on an assumption that finds no support in the record.
16 Company's property tax calculation assumes that the tax rates for 2000
17 will be the same as the tax rates for 1999. Because any increase in the
18 Company's property tax expense is not known and measurable, the
19 Commission will not adopt the Company's proposal. Staff's proposal to
20 use a known amount (the last amount actually paid), while probably not a
21 perfectly accurate representation of the property taxes that will be paid in
22 the future, at least avoids the speculation inherent in Company's proposal.

23 The Commission is clearly stating that an expense must be known and measurable before it can
24 be considered for inclusion in cost of service calculation.

25 Q. Please summarize the Staff's position with regard to property tax expense.

26 A. Staff recommends that the Commission include the actual last known and
27 measurable property tax expense that was paid by December 31, 2011. Staff also recommends
28 that the Commission exclude any amount of property taxes associated with the Maryland Heights
29 renewable energy center from the cost of service calculation since Ameren Missouri will not be
30 required to pay taxes on this plant addition until December 2013, well beyond the true-up cutoff
31 that was established by the Commission in this rate proceeding.

² Public Service Commission Reports, *St. Louis County Water Company*, Case No. WR-2000-844, et al., Report and Order, 10 Mo. P.S.C. 3d 259 (2001).

MISCELLANEOUS DUES AND DONATIONS

Q. Based on the rebuttal testimony of Company witness Weiss, Staff made adjustments to dues and donations that he believes should be reconsidered. How does Staff respond to this?

A. Beginning on page 20 of his rebuttal testimony, Mr. Weiss discusses multiple items that he believes should have been allowed or have been double counted by Staff. Based on additional information provided by the Company, Staff has reconsidered some of the adjustments that were made in its direct filing. Staff believes that \$129,729 previously recommended for disallowance should now be included in the cost of service calculation. This includes a correction to the adjustment to remove expenditures associated with the gas operations, a duplicate Staff adjustment for the Civic Progress membership dues, and certain charges for Company employee membership dues that Ameren Missouri has confirmed through additional supporting documentation.

Q. Is Staff now including in its cost of service all of the items Mr. Weiss raised concerns about in his rebuttal testimony?

A. No. Staff submitted Data Request No. 523 seeking additional information about the Utility Water Act Group, the United Solid Waste Activities Group, and the Utility Air Regulatory Group. At this time, the Company has not provided this information or confirmed the ratepayer benefit of membership to these organizations. The membership fees for these organizations equal \$250,532. Staff will re-examine these costs once the Company provides a response to Staff's data request.

MISCELLANEOUS EXPENSE

Q. On pages 22 and 23 of Mr. Weiss's rebuttal testimony, he mentions numerous items that Staff has removed from the revenue requirement. Based on the additional information provided by Ameren Missouri, has Staff reconsidered their position on any of these items?

A. Yes. Staff agrees that \$254,548 for labor should be included in the cost of service calculation, as well as the \$10,430 for dues and donations expenses that were a double counted adjustment and removed twice. Staff also agrees that \$15,076 in expense for the shoreline management at the Lake of the Ozarks, \$29,536 for expenses related to Ameren Missouri's health center, \$14,232 for Ameren Missouri's newswire program, \$5,000 for legal fees, \$6,524 for employee recognition gifts, \$14,711 for a software package and \$9,569 for motivational training for Ameren Missouri employees should be included in the cost of service calculation. In total the Staff proposes to include \$359,626 of miscellaneous expenses that it previously disallowed.

Q. Are there any items that Mr. Weiss mentioned in his rebuttal testimony in this area that Staff has not included in their cost of service calculation?

A. Yes. Staff does not believe that Ameren Missouri has provided sufficient detail to show the ratepayer benefit for \$35,000 for a right-of-way assessment and "nest box study" with the World Bird Sanctuary. To date, Staff has not been provided sufficient evidence to warrant the inclusion of this cost in rates.

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) Case No. ER-2012-0166
Revenues for Electric Service)
)

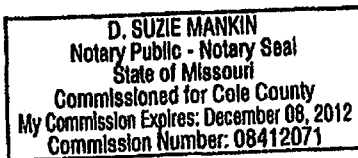
AFFIDAVIT OF ERIN M. CARLE

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

Erin M. Carle, of lawful age, on her oath states: that he has participated in the preparation of the foregoing Surrebuttal Testimony in question and answer form, consisting of 13 pages to be presented in the above case; that the answers in the foregoing Surrebuttal Testimony were given by her; that she has knowledge of the matters set forth in such answers; and that such matters are true and correct to the best of her knowledge and belief.

Erin M. Carle
ERIN M. CARLE

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



D. Suzie Mankin
Notary Public

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) Case No. ER-2012-0166
Revenues for Electric Service)
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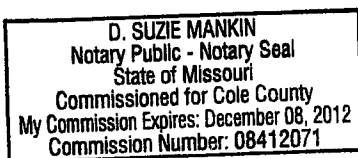
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Erin M. Carle
ERIN M. CARLE

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



D. Suzie Mankin
Notary Public