STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Central Illinois Public Service Company (AmerenCIPS) and Union Electric Company (AmerenUE)	:	
	:	**02-0798**
Application for entry of protective order to protect confidentiality of materials submitted in support of revised gas service tariffs.	:	**(Cons.)**
	:	
Central Illinois Public Service Company	:	
	:	**03-0008**
Proposed general increase in natural gas rates. (Tariffs filed November 27, 2002)	:	
	:	
Union Electric Company	:	
	:	**03-0009**
Proposed general increase in natural gas rates. (Tariffs filed November 27, 2002)	:	

PROPOSED ORDER ON REHEARING

By the Commission:

I. PROCEDURAL HISTORY

On October 23, 2003, the Commission entered an Order in consolidated Dockets 02-0798, 03-0008, and 03-0009. On November 24, 2004, Union Electric Company d/b/a AmerenUE ("UE" or the "Company") and Central Illinois Public Service Company d/b/a AmerenCIPS applied for rehearing on three issues. On December 9, 2003, the Commission granted rehearing "to determine by what amount UE's post-test year capital additions exceed the increases in UE's accumulated depreciation as of November 27, 2003" and denied rehearing as to all other issues. (Notice of Commission Action, Dec. 9, 2003.)

Pursuant to notice given in accordance with the law and the rules and regulations of the Commission, a status hearing was held before duly authorized Administrative Law Judges of the Commission in Springfield, Illinois, on December 18, 2003. The evidentiary hearing likewise was held on March 2, 2004. UE, Commission Staff ("Staff"), and the Attorney General ("AG") appeared by counsel at these hearings. The Company offered the testimony of Gary S. Weiss, Director of Regulatory Accounting and Depreciation for Ameren Services Company. Staff offered the testimony of Theresa E. Ebrey, an Accountant in the Financial Analysis Division of the Commission. The AG offered the testimony of David J. Effron, a consultant doing business as Berkshire Consulting Services. At the conclusion of the hearing on March 2, 2004, the record on rehearing was marked “Heard and Taken.”

The parties agreed to use actual data rather than projected data for the analysis of the issue presented on rehearing. Also, the parties agreed that, based on monthly record keeping by the Company, the period at issue should run through November 30, 2003, rather than end at November 27, 2003.

II. POSITION OF UE

To determine the amount by which its post-test year capital additions exceed the increases in its accumulated depreciation, UE takes the actual amounts expended as of November 30, 2003, on its three major capital projects for which pro forma adjustments were made in the original Order, and deducts the increase in its total accumulated depreciation which occurred from the end of the test year. UE then adjusts depreciation expense. UE urges the Commission to find post-test year capital additions of $1,900,000; an increase in total accumulated depreciation of $551,000; and additional depreciation expense of $46,000.

The Company asserts that this procedure is the same as that used in other cases for which pro forma adjustments are made, except that actual data has been used in this rehearing. The Company also avers that this method produces a fair result, because it examines only those significant post-test year capital additions presented originally, and does not include retirements not at issue previously. The Company suggests that the Commission typically has not considered retirements in connection with pro forma adjustments for plant additions. In the alternative to its proposal, UE accepts the AG’s method as reasonable.

UE disagrees with the methodology of Staff, however. The Company argues that Staff failed to follow the scope of the rehearing by proposing various additional adjustments. Not only are those adjustments improper for the scope of the rehearing, UE contends, they also result in a decreased revenue requirement for additions to plant.

Specifically, UE disagrees with Staff’s assignment of costs to various accounts. The accounts at issue are Accounts 324, 328, and 329, which UE characterizes as pertaining to construction overhead costs and Accounts 878, 887, 892, and 893, which reflect operations and maintenance expenses. UE asserts that Staff only allows charges to capital Accounts 376, for mains, and 380, for services, relating to the major construction projects.

According to UE, Staff excluded charges associated with construction overhead and house regulators for the three major construction projects because they were charged to accounts other than Accounts 376 or 380. UE argues that the charges were actually incurred in connection with the projects, and that their originally-anticipated classifications to various accounts are irrelevant. Second, UE contends that Staff barred recovery of certain charges that were reclassified from operating expense to capital accounts in November, 2003. The Company states that all of the reclassified costs were assigned to Account 380. UE contends that this amounted to mere error correction, was based on a routine review by its accounting staff, and had no connection to the instant rehearing. Also, there are several indirect apportionment items that follow the reclassifications of dollars from expense to capital accounts. The Company contends that Staff's exclusion of these items should be rejected.

UE contests the inclusion by Staff of retirements of plant in the post-test year capital additions. The Company asserts that including retirements is unfair, because UE is limited to only including major additions rather than all post-test year additions, and the amount of the adjustment for the major construction projects is already being offset by the entire change in accumulated depreciation. The Company does not object, however, to the AG's calculation of all post-test year capital additions less retirements.

Similarly, in response to Staff's argument as to the scope of rehearing, UE points out that it simply substitutes actual plant additions for the pro forma plant additions included in its original filing. Should the Commission determine that the scope of the rehearing encompass all impacts of post-test year capital additions, UE argues that Staff's recommendation should be rejected because it selectively excludes certain plant additions other than the major construction projects, and illogically results in a lower revenue requirement for additional plant in service. While it contends that its own proposal is proper, UE asserts that only the AG's proposal incorporates all impacts, both positive and negative, for all post-test year capital additions.

III. POSITION OF STAFF

Staff asserts that the scope of the rehearing is the reconsideration of the amount of post-test year capital additions to be included in rate base, including all impacts of the additions; both increases and decreases to the revenue requirement. To do otherwise, Staff avers, would violate Section 285.150(e); that Section allows pro forma adjustments for known and measurable changes, not merely for increases.

According to Staff, only those post-test year capital additions anticipated by the Company at the time of its initial filing in Docket 03-0009 should be included in the calculation of post-test year capital additions in this rehearing. Staff states that several adjustments to UE's proposal are necessary to reach this amount. Staff recommends that the Commission adopt an increase of $705,000 for net distribution plant additions, which reflects post-test year plant additions of $722,000, less $17,000 of accumulated depreciation. While Staff concedes that this recommendation is less than the $785,000 increase recognized in the original Order, Staff contends that its recommendation still constitutes an overall rate increase.

First, Staff limits the post-test year capital additions to those amounts charged to Accounts 376 and 380 during the period July 1, 2002 through November 30, 2003, associated with the Alton gas main replacement project. According to Staff, UE anticipated only additions to Distribution Plant Accounts 376 and 380 at the time of its initial filing. Also, according to Staff, the Uniform System of Accounts for Gas Utilities ("USOA") describes Account 328 as "Field Measuring and Regulating Station Structures" and Account 329 as "Other Structures", both related to Natural Gas Production Plant. Account 324 is not listed in the USOA. Since Gas Production Plants are not included in Distribution Plant, Staff contends, Accounts 328, 329, and 324 should not be considered in the recalculation of post-test year capital additions on rehearing. Staff asserts that the AG also excludes Accounts 324, 328, and 329 from its calculation.

Staff also challenges UE's reclassification of charges among accounts, contending that they are unsupported by the Company responses to its data requests. Staff argues that the reclassifications related to the 2003 work order are not routine, as the Company suggests, because UE did not provide Staff with any classifications for a similar 2002 work order. Staff also notes that the reclassifications are included in the AG's calculation.

Staff additionally includes an adjustment to exclude the amount of plant retirement from post-test year capital additions recorded from July 1, 2002, through November 30, 2003, in connection with the Alton gas main replacement project. Although UE argues that retirements should not be adjusted on rehearing, Staff disagrees for three reasons. First, UE's position allows it to earn a return on investment that it no longer has. Staff asserts that this conflicts with the "used and useful" standard for plant in service. Second, net plant is overstated to the extent that the retirements have been recorded on the books but do not reduce rate base. Third, depreciation expense is overstated. Because the Company's depreciation expense is based solely on additions to gross plant in service, Staff argues, the resulting depreciation expense calculation includes a component for plant that has been retired and is no longer used and useful. Staff states that the Commission has previously accounted for retirements in considering the proper amount of plant to include in rate base. Staff directs the Commission's attention to Dockets 01-0465/01-0530/01-0637 (Cons.), 01-0423, and 02-0592

Staff asserts that there is an issue as to the necessary adjustments to plant in service. Staff states that the adjustment should be made only to plant in service for the excess of post-test year capital additions over the increase in accumulated depreciation. Staff notes that its increase in plant in service for post-test year capital additions is based on the difference between Staff's calculated post-test year capital additions and the increase in accumulated depreciation from July 1, 2002, through November 30, 2003.

Staff contends that the method of calculation should not be contrary to that set forth in the original Order. The Order indicates that, for UE, "additions to plant in service should be included in rate base to the extent that they exceed increased accumulated depreciation." (Order, pp. 10-11.) According to Staff, the Commission's conclusion regarding the amount of post-test year capital additions does not direct an adjustment to

Accumulated Depreciation, such as those included in the instant methods urged by both UE and the AG. Staff also seems to take issue with the adjustments being based on the actual balance of accumulated depreciation on November 30, 2003, as applied by UE and the AG.

While Staff states that it as well as UE and AG propose adjustments to depreciation expense based on their figure for post-test year capital additions, Staff contends that the depreciation expense calculated on the increase in plant in service as presented by the Company and the AG is overstated based on the limitation placed by the Order on the amount of post-test year capital additions to be included in rate base.

IV. POSITION OF AG

At issue on rehearing is the amount by which UE's post-test year capital additions exceed the increase in UE's accumulated depreciation at the end of November, 2003. The AG asserts that the figures for net distribution plant in service in the original Order and as of November 30, 2003, are fixed numbers, and that their use in determining the issue on rehearing eliminates any inconsistency related to the accounting treatment of retired plant. The AG adjusts plant in service by the amount of increase in Distribution Plant from July 1, 2002, through November 30, 2003, with an offsetting adjustment to accumulated depreciation for the amount of change in Distribution Plant Accumulated Depreciation during the same period. The AG avers that its methodology on rehearing follows that adopted in the original Order.

The AG explains that the net distribution plant in service in the original Order was \$13,545,000, and the same on November 30, 2003, was \$14,047,000. The difference in net plant in service as of November 30, 2003, is a \$502,000 increase over the amount recognized in the original Order. Accordingly, the AG recommends that the adjustment on rehearing to UE's rate base be limited to \$502,000.

V. COMMISSION CONCLUSION

As a preliminary matter, the Commission is not persuaded that any outcome less than the amount authorized in the October 22, 2003 Order is facially unreasonable or an "illogical cumulative effect" (UE Reply Br. at 3). The Commission reviews the entire record available to it on rehearing, and reaches its conclusion accordingly. By filing for rehearing, the Company opened the door to the entire range of possible outcomes of the rehearing, not merely to those which it deems favorable.

Turning to the underlying issues, the Commission concurs with Staff that an adjustment for retired plant should be included in the calculation of post-test year capital additions. As Staff points out, retired plant is no longer used and useful in providing service to utility customers. Section 9-211 of the Act provides that "[t]he Commission, in any determination of rates or charges, shall include in a utility's rate base only the value of such investment which is both prudently incurred and used and useful in providing service to public utility customers." 220 ILCS 5/9-211. That Section, therefore, bars inclusion in rate base any plant which has been retired from service. The Commission also concurs with Staff that failing to account for plant retirement would result in overstatements of net plant and depreciation expense. Accordingly, Staff's adjustment for retired plant should be adopted.

With regard to UE's reallocations among certain accounts to determine major post-test year plant additions, the Commission must first acknowledge its atypical use of actual, rather than pro forma, account allocations. Because this rehearing occurs after the twelve month period following the filing date of UE's gas rate case, the Commission believes it is reasonable to take advantage of the existence of actual cost information. In doing so, the Commission does not mean to suggest that similar treatment must be accorded in all similar future situations.

That said, the Commission also does not mean to suggest that it will blindly accept whatever reallocations UE has made in association with its major post-test year plant additions. While it is certainly not wrong to conduct the type of review that UE says led to the account reallocations, certain irregularities in the material offered in support of the reallocations necessitate a review of each reallocated account to determine whether the reallocation of costs from the particular account into Account 380 is appropriate. To assist in its review of the accounts at issue, the Commission takes administrative notice of the USOA, 83 Ill. Adm. Code 505.

UE characterizes Accounts 324, 328, and 329 as its construction overhead accounts. The Commission notes that Account 324 does not appear in the USOA and that the latter two accounts are Production Plant accounts, specifically Natural Gas Production and Gathering Plant accounts. The Commission is troubled by UE's use of these accounts. The most obvious concern relates to UE's creation of Account 324. While the Commission is aware that gas utilities sometimes create a sub-account within an existing account, this situation is different because Account 324 does not exist to begin with. Moreover, if Account 324 did exist, it would arguably fall into the category of Production Plant accounts along with Accounts 328 and 329. By its own admission, UE does not have any production plant. Therefore, UE should not be using these accounts at all. If UE has construction overhead costs for distribution main replacement projects, it should include such costs in the appropriate Distribution Plant account. Because it is unclear why UE used these three accounts, the Commission questions the nature of the costs contained therein (particularly with regard to Account 324). As such, the Commission finds that UE has not sufficiently justified the reallocation of the costs in these accounts to Account 380, and therefore will not permit their inclusion in the value of the post-test year plant additions.

UE's reallocation of the costs in Accounts 878, 892, and 893, Operation and Maintenance Expense accounts, to Account 380 seems more reasonable on its face, but these reallocations are problematic as well. While the Commission supports efforts to detect and correct errors, aspects of UE's reassignment of costs in these accounts raise questions. To begin with, Staff identifies inconsistencies in the information provided by UE to support the reallocations from Accounts 878, 892, and 893. These inconsistencies bring into question the accuracy of the review and reallocation conducted by UE. An additional inconsistency not noted by Staff further clouds the reliability of UE's review. Among the work papers attached to Staff Cross Exhibit Weiss 2-Rehearing is a monthly expense report with a Run Date of September 16, 2003. The expenses listed on Lines 1 through 4 appear to be the same expenses listed on Lines 19 through 22, the only difference being that the first group of listings is assigned to Account 892 and second group is assigned to Account 893. While the Commission does not believe that this apparent duplication is intentional, the existence of this irregularity exacerbates concerns about the information used to support the reallocations. Furthermore, while the Commission understands that it is sometimes appropriate for a utility to reallocate or reclassify costs, the obligation to justify costs proposed for inclusion in rate base clearly lies with UE in this instance. Despite UE's assertions that the reallocations at issue here are routine, the record demonstrates numerous irregularities and inconsistencies in the underlying data provided by UE. The Commission therefore finds that UE has not sufficiently justified the reallocation of costs from Accounts 878, 892, and 893 to Account 380.

In light of the Commission's findings regarding Accounts 324, 328, 329, 878, 892, and 893, UE's reallocation of costs from Account 887 also can not be adopted. Mr. Weiss explains that Account 887 contains indirect operating expenses that "follow" the costs in Accounts 324, 328, 329, 878, 892, and 893. If these accounts are not reallocated to Account 380, then neither should any costs that typically "follow" these accounts.

Account 383 reflects costs associated with house regulators. UE seeks to slightly increase the costs allocated to this account. Generally, the Commission would agree that some costs for house regulators might be incurred in association with a gas distribution main replacement project. Because of the aforementioned concerns about the reliability of UE's support for its proposed account reallocations, however, the Commission is again not persuaded that it would be appropriate to include such reallocations in post-test year plant additions. Instead, the costs for house regulators reflected in Account 383 will be included in rate base in the manner proposed by Staff.

Accordingly, the account distribution recommended by Staff should be adopted for purposes of determining major post-test year plant additions for this rehearing. In light of the foregoing, the Commission concurs with Staff that UE's post-test year capital additions exceed accumulated depreciation by $722,000.

VI. FINDING AND ORDERING PARAGRAPHS

The Commission, having considered the entire record herein and being fully advised in the premises, is of the opinion and finds that:

(1) UE is a Missouri corporation authorized to conduct business in Illinois and is engaged in the distribution and sale of natural gas to the public in Illinois and is a public utility as defined in Section 3-105 of the Act;

(2) the Commission has jurisdiction over the parties hereto and the subject matter herein;

(3) the recitals of fact and conclusions of law reached in the prefatory portion of this Order on Rehearing are supported by the evidence of record, and are hereby adopted as findings of fact and conclusions of law; the Appendix attached hereto provides supporting calculations for this Order on Rehearing;

(4) for purposes of this proceeding, the net original cost rate base for UE's gas operations for the test year ending June 30, 2002, as adjusted, is $14,791,000;

(5) a just and reasonable return which UE should be allowed to earn on its net original cost gas rate base is 8.24%; this rate of return incorporates a return on common equity of 10.46%;

(6) the rate of return set forth in Finding (5) results in base rate gas operating revenues of $6,837,000 and net annual operating income of $1,219,000 based on the test year approved herein;

(7) UE should be authorized to place into effect tariff sheets designed to produce annual base rate revenues of $6,837,000, which represent an increase of $1,877,000 or 12.53% over the tariff sheets in effect on November 27, 2002; such revenues will provide UE with an opportunity to earn the rate of return set forth in Finding (5) above; based on the record in this proceeding, this return is fair and reasonable for UE;

(8) determinations regarding cost of service contained in the prefatory portion of this Order on Rehearing are reasonable for purposes of this proceeding; the Order dated October 23, 2003, should be affirmed in all other respects; the tariffs filed by UE should incorporate the rates and rate design set forth in the Order dated October 23, 2003, and referred to herein;

(9) new tariff sheets authorized to be filed by this Order on Rehearing should reflect an effective date not less than five working days after the date of filing, with the tariff sheets to be corrected, if necessary, within that time period; and

(10) all motions, petitions, objections, and other matters in this proceeding which remain unresolved should be disposed of consistent with the conclusions herein.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the tariff sheets presently in effect for gas service rendered by Union Electric Company following the entry of the Order dated October 23, 2003, are hereby permanently canceled and annulled effective at such time as the new gas tariff sheets approved herein become effective by virtue of this Order on Rehearing.

IT IS FURTHER ORDERED that Union Electric Company is authorized to file new tariff sheets with supporting workpapers in accordance with Findings (7), (8), and (9) of this Order on Rehearing, applicable to gas service furnished on and after the effective date of said gas tariff sheets.

IT IS FURTHER ORDERED that the Order dated October 23, 2003, is affirmed in all other respects.

IT IS FURTHER ORDERED that all motions, petitions, objections, and other matters in this proceeding which remain unresolved are disposed of consistent with the conclusions herein.

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order on Rehearing is final; it is not subject to the Administrative Review Law.

DATED:	April 1, 2004
BRIEFS ON EXCEPTIONS DUE:	April 12, 2004
REPLIES TO EXCEPTIONS DUE:	April 16, 2004

Administrative Law Judges