

DIRECT TESTIMONY

of

LESLIE PUGH

Accounting Department
Financial Analysis Division
Illinois Commerce Commission

Reconciliation of revenues collected under Coal Tar riders
with prudent costs associated with coal tar clean up expenditures

Ameren Union Electric Company

Docket No. 04-0108

November 18, 2004

TABLE OF CONTENTS

Witness Identification 1
Schedule Identification 2
Incremental Costs 2
Adjustment to Remove Costs Associated with the Purchase of 727 Belle St.,
Alton, IL Property 3
Prudence Review 10
Recoveries 12
Conclusion 12

SCHEDULES

Schedule 1.01 – Cumulative Status of Recoveries and Costs

Schedule 1.02 – Adjustment to Remove Costs Associated with the Purchase of
727 Belle St., Alton, IL Property

1 Witness Identification

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

3 A. My name is Leslie Pugh. My business address is 527 East Capitol
4 Avenue, Springfield, Illinois 62701.

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

6 A. I am currently employed as an Accountant in the Accounting Department
7 of the Financial Analysis Division of the Illinois Commerce Commission
8 (“ICC” or “Commission”).

9 **Q. Please describe your professional background and affiliations.**

10 A. I earned a Bachelor of Arts degree in Accounting from the University of
11 Illinois at Springfield. I am a Certified Public Accountant, licensed to
12 practice in the State of Illinois. Prior to joining the Staff of the Illinois
13 Commerce Commission (“Staff”), I was engaged in the practice of public
14 accounting.

15 **Q. Have you previously testified before any regulatory bodies?**

16 A. Yes. I have testified on several occasions before the Commission.

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

18 A. The purpose of my testimony is to present the results of my review and to
19 propose an adjustment to Ameren Union Electric Company’s (“AmerenUE”
20 or “Company”) incremental costs as set forth in the Company’s filing,

21 which describes the incremental costs and the recoveries collected under
22 its Riders, Rider E, Gas Environmental Adjustment Clause (“GEAC”), and
23 Rider R, Electric Environmental Adjustment Clause (“EEAC”), for the year
24 ended December 31, 2003.

25 Schedule Identification

26 **Q. Are you sponsoring any schedules with your testimony?**

27 A. Yes. I have prepared two schedules that are attached to this testimony:
28 Schedule 1.01 – Cumulative Status of Recoveries and Costs
29 Schedule 1.02 – Adjustment to Remove Costs Associated with the
30 Purchase of 727 Belle St., Alton, IL Property

31 Incremental Costs

32 **Q. Did you review the incremental costs incurred by AmerenUE under**
33 **Rider R EEAC and Rider E GEAC?**

34 A. Yes. I reviewed the incremental costs incurred by AmerenUE for the year
35 ended December 31, 2003.

36 **Q. According to AmerenUE, what was the total of the incremental costs**
37 **incurred by AmerenUE for the year ended December 31, 2003?**

38 A. AmerenUE’s Exhibit 1.0, Schedule 1.0, shows total incremental costs of
39 \$329,336 for the year ended December 31, 2003.

40 **Q. What is the total amount that AmerenUE should be allowed to**
41 **recover for its incremental costs incurred during the twelve-month**
42 **period ended December 31, 2003?**

43 A. AmerenUE should only be able to recover \$3,039 for costs incurred in
44 2003. I am proposing an adjustment to remove the costs associated with
45 the purchase of the Alton site located at 727 Belle St., Alton, IL (“Alton
46 site”).

47 **Q. Has AmerenUE also included costs for carrying charges in the 2003**
48 **reconciliation period?**

49 A. No. AmerenUE has not included any carrying charges in the 2003
50 reconciliation period.

51 Adjustment to Remove Costs Associated with the Purchase of 727 Belle St.,
52 Alton, IL Property

53 **Q. Are you proposing any adjustments to the Company’s 2003 total**
54 **incremental costs?**

55 A. Yes. The adjustment of \$326,297 reflected on Schedule 1.02, line 9,
56 column B, removes the costs associated with the purchase of the property
57 located at 727 Belle St., Alton, IL. The costs include appraisal services,
58 title examination charge, earnest deposit for property, balance of sale price
59 for purchase of property, and credit due from overpayment of cash
60 settlement for purchase of property. As explained later in this testimony,
61 the Alton site expenditure is an investment in an asset that will provide the

62 Company with future economic benefits. It is not a current expense that
63 the Company should recover through the riders.

64 **Q. Does the Company believe that it is appropriate to recover through**
65 **Rider R, EEAC and Rider E, GEAC the cost of purchasing the**
66 **property located at 727 Belle St., Alton, Illinois?**

67 A. Yes. In the Company's response to Staff Data Request LAP-1.37, the
68 Company states:

69 The Company interprets its obligations under the Riders referenced
70 above to implement prudent and cost-effective remediations.
71 Before IEPA approves a remediation work plan, it requires the
72 owner's consent to this plan. Specifically, a remediation plan that
73 provides for restricted (versus unrestricted) use is the most cost-
74 effective alternative. By owning the property, the Company can
75 agree to such restrictions and ensure that institutional controls,
76 such as engineered barriers, are maintained.

77
78 With respect to the Alton site, the former owner -- an out-of-state
79 real estate developer -- could have required the Post Office
80 property be remediated to unrestricted use levels. In addition,
81 based upon the site investigation, the Company believes that
82 impacted materials are located around an old, brick-lined sewer.
83 Removal of that material could cause the line to collapse and add to
84 the scope of the required cleanup. Based upon such factors, the
85 Company believes that by purchasing the property, AmerenUE is in
86 a better position to positively control or influence these variables.
87 Furthermore, based upon its experience, an "unrestricted use"
88 cleanup could add four to ten times the cost.

89
90 The Company is aware of at least one instance where the
91 Commission approved the purchase of property at an MGP site.
92 That case involved Central Illinois Public Service Company
93 (AmerenCIPS) and the DuQuoin MGP site. The Company is
94 reviewing its files to provide more detail to Staff on this case.

95 **Q. Does Staff agree with the Company's interpretation of the Riders to**
96 **include the costs associated with the purchase of the property**
97 **located at 727 Belle St., Alton, IL?**

98 A. No. Staff has no reason to disagree that purchasing the property will allow
99 the Company to more positively control the remediation. However, Staff
100 believes that the costs associated with the purchase of the Alton site
101 should not be recovered through the Riders. Staff has removed the costs
102 associated with the purchase of the Alton site from the allowable
103 expenses on the basis that:

- 104 1) The legal and equitable interests in utility-owned property lie with
105 the shareholder, not with the ratepayers, and it is the shareholders
106 who will benefit from any future sale of the property;
- 107 2) The land in question should be capitalized because it is an addition
108 and a new asset that will continue to have value after the clean-up
109 is complete has been created; and,
- 110 3) The land in question has a future economic benefit to the Company,
111 as it has been appraised at market price, and will continue to
112 provide value to the Company either as rental income or profit from
113 the option to purchase by the Government as noted in the Lease
114 Agreement.

115 I will discuss each of these points in greater detail below.

116 1) The legal and equitable interests in utility-owned property lie with
117 the shareholder, not with the ratepayer. The costs of the land should not
118 be passed through the riders because the ratepayers do not have any
119 interest, legal or equitable, in the utility property. The shareholders enjoy
120 the benefit of utility ownership, which includes profits from service to
121 customers, profits from the sale of utility-owned land, and more generally,
122 profits from the growth of the utility. In Docket No. 91-0080 et al. (cons.),
123 which was initiated by the Commission to investigate issues related to coal
124 tar clean-up expenditures, the Commission considered the responsibility
125 for cleanup noting the following:

126 **...The legal and equitable interests in utility-owned property lie**
127 **with the shareholder, not with the ratepayer. As owners of a**
128 **corporation, shareholders enjoy the benefits of corporation**
129 **property, but, also bear the burden of risks attendant to that**
130 **ownership. The customers of utility companies, however, are**
131 **just that – customers who pay for service from the company.**
132 **Thus, a customer’s responsibility is limited to paying utility**
133 **costs which are just and reasonable under the Act.**

134 **The Commission’s treatment of profits and losses associated**
135 **with the sale of land is consistent with the view that**
136 **shareholders should carry the burden of paying for liabilities**
137 **attendant to ownership of utility property. It is the**
138 **Commission’s practice to record the sale of real property**
139 **below-the-line. See, e.g., Northern Illinois Gas Co. Petition for**
140 **Consent for Transfer of Real Estate, ICC Docket No. 89-0120**
141 **(1990). By recording the sale of real property below-the-line,**
142 **the Commission allows utilities to keep profits on the sale of**
143 **land for their shareholders. It follows that if the utility is**
144 **allowed the benefit of profits associated with land ownership,**
145 **then the utility should bear the burden of the liabilities**
146 **associated with land ownership as well. Moreover, this result**
147 **is mandated by the Commission’s Uniform System of**
148 **Accounts, which requires net gains and losses from the**
149 **disposition of real property in Accounts 421.1 and 421.2 to be**

150 **recorded below-the-line. These accounts treat gains or losses**
151 **on real estate as a company gain or loss, and, thus not**
152 **charged to ratepayers.¹**

153 While the ratepayers pay for the clean-up of the contaminated site, they
154 should not be responsible for the cost of purchasing the land on which the
155 contaminated site is located. The Company holds the legal title to the
156 land. Thus, it is the Company, and not the ratepayer, that will benefit from
157 any profits associated with the ownership. Therefore, shareholders, not
158 the ratepayers, should bear the burden of costs associated with the
159 purchase of the Alton site.

160 2) The land in question should be capitalized because it is an addition
161 and a new asset has been created by its purchase. The property will
162 continue to have value to the Company after the clean-up is completed.
163 Statement of Financial Accounting Standards No. 67 establishes
164 accounting and reporting standards for acquisition costs associated with
165 real estate projects. The Statement specifies that costs associated with
166 the acquisition, development, and construction of a real estate project
167 shall be capitalized as a cost of that project.²

168 Furthermore, the Alton site property comports with the definition of an
169 asset. An asset has three essential characteristics: a) it embodies a
170 probable future benefit that involves a capacity, singly or in combination

¹ Order, Docket No. 91-0080, et al. (cons.), September 30, 1992, pages 42 and 43.

² FAS-67, par. 7.

171 with other assets, to contribute directly or indirectly to future net cash
172 inflows, b) a particular entity can obtain the benefit and control others'
173 access to it, and c) the transaction or other event giving rise to the entity's
174 right to or control of the benefit has already occurred.³

175 For that reason, by definition the property is an asset and not an expense
176 incurred and recoverable under the EEAC and GEAC Riders. The EEAC
177 and GEAC Riders define recoverable costs as:

178 **EAC Costs are all costs paid or payable to parties other than**
179 **Company employees (including legal fees) which are**
180 **associated with Environmental Remediation Activities. EAC**
181 **Costs shall also include Allowable Carrying Charges**
182 **associated with the deferral of EAC Costs. EAC Costs will be**
183 **credited to reflect proceeds received from insurance carriers**
184 **or other entities which represent reimbursement of costs**
185 **associated with Environmental Remediation Activities. EAC**
186 **Costs shall not include the salaries of Company employees, or**
187 **any benefits related thereto. EAC Costs for an Annual**
188 **Recovery Period also shall not include costs accrued under**
189 **Statement of Financial Accounting Standards No. 5 ("SFAS No.**
190 **5") for which no cash expenditure is forecasted during the**
191 **Annual Recovery Period. Such SFAS No. 5 costs shall be**
192 **recoverable as EAC costs in the Annual Recovery Period**
193 **during which cash expenditures are forecasted. Prior to the**
194 **time that costs accrued under the SFAS No. 5 are recovered**
195 **under the EEAC, such costs may be deferred in Account 186.**

196 **Environmental Remediation Activities shall include: (i) direct**
197 **or indirect activities associated with the investigation, clean-**
198 **up, sampling, monitoring, testing, removal, and/or disposal of**
199 **material, residues, wastes or substances related to**
200 **manufactured gas site operations, the dismantling of facilities**
201 **used in connection with manufactured gas site operations**
202 **and/or other activity which generated substances subject to**
203 **Federal, State or local environmental laws or regulations at**
204 **sites where manufactured gas operations were at any time**

³ Statement of Financial Accounting Concepts No. 6, par. 26.

205 **conducted; and (ii) litigation or other legal activities related to**
206 **the activities hereinabove listed, including, but not limited to,**
207 **litigation or legal activities associated with efforts to recover**
208 **costs associated with any such activities from insurers or**
209 **other responsible parties.⁴**

210 Therefore, the property purchased is an asset with future value to the
211 Company and not an expense incurred that would be recovered under
212 Riders EEAC and GEAC.

213 3) The land in question has a future economic benefit to the Company.
214 The costs of the land should not be passed through the riders because the
215 land was appraised at market price and will continue to provide future
216 value to the Company as either rental income or profit from the option to
217 purchase by the Government as noted in the Lease Agreement. Although
218 the Company purchased the property with the intent to lower
219 environmental clean-up costs, that does not negate the fact that the
220 Company will earn in the future an economic benefit.

221 FASB Statement of Financial Concepts provides guidance in accounting
222 transactions, their recognition and measurement, and communication of
223 the transactions to interested parties. Concept #6, Elements of Financial
224 Statements, states that the most obvious evidence of future economic
225 benefit is a market price.⁵ In response to Staff's Data Request regarding

⁴This definition is from the Company's EEAC Rider, ILL. C. C. Schedule No. 5, Original Sheet No. 121.9, which became effective on August 28, 1996, and from the Company's GEAC Rider, ILL. C. C. No. 6, Sheet No. 24, which became effective on February 24, 1999.

⁵ Statement of Financial Accounting Concepts No. 6, par. 173.

226 whether the Company paid a market price for the property, the Company
227 stated that “it believes that it paid a fair and reasonable price for the
228 property.” (See response to Staff DR LAP-1.31)

229 As part my analysis, I reviewed a copy of the lease between the Company
230 and the U.S. Postal Service. The lease has 6 five-year renewal terms.
231 Renewal of the lease is at the discretion of the U.S. Postal Service. (See
232 response to Staff DR LAP-1.38) It is my understanding that the U.S.
233 Postal Service has no plans to move the Alton Post Office. (See response
234 to Staff DR LAP-1.33) In consideration of the award of the lease contract,
235 the Government shall have the option to purchase the fee simple-title to
236 the leased premises, including the underlying land, at the specific times
237 and prices stated at the end of each renewal term. Since it is the
238 Company, and not the ratepayer, that will profit from any future transaction
239 regarding the potential sale of the property, allowing Company to recover
240 the cost of the land through the Riders is simply inequitable.

241 Prudence Review

242 **Q. Did you review the prudence of the incremental costs incurred by**
243 **AmerenUE during the year ended December 31, 2003?**

244 A. Yes, I did. In the Order on Rehearing for Docket No. 90-0127, the
245 Commission adopted four standards to review the prudence of

246 expenditures for environmental activities.⁶ The Commission affirmed
247 these same four standards in the Order for Docket Nos. 91-0080 through
248 91-0095 (Consolidated).⁷ I based my evaluation of the Company's
249 incremental costs for environmental activities on the following four
250 standards:

- 251 1) reasonable and appropriate business standards,
- 252 2) the requirements of other relevant state and/or federal authorities,
- 253 3) minimization of costs to ratepayers, consistent with safety,
254 reliability, and quality assurance, and
- 255 4) facts and knowledge the Company knew or reasonably should have
256 known at the time the expenditures were made.

257 **Q. As a result of your review, did you discover any incremental costs**
258 **that were incurred by AmerenUE during the year ended December**
259 **31, 2003, that did not meet the previously listed standards of**
260 **prudence?**

261 A. No. Other than the one adjustment I am proposing, no other costs have
262 come to my attention to indicate that any of the remaining incremental
263 costs incurred by AmerenUE during the year ended December 31, 2003,
264 do not meet the four previously listed standards of prudence.

⁶Order on Rehearing, Docket No. 90-0127, Central Illinois Light Company, August 2, 1991, pages 25 and 26.

⁷Order, Docket Nos. 91-0080 through 91-0095 (Consolidated), Central Illinois Light Company et al, September 30, 1992, pages 78 through 81.

265 **Q. Has AmerenUE prepared any additional information pertaining to the**
266 **prudence of its Environmental Activities?**

267 A. Yes. In response to Staff Data Requests SDR-1.01 through SDR-1.22,
268 AmerenUE provided additional information on prudence. AmerenUE
269 should enter its responses to SDR-1.01 through SDR-1.22 into the
270 evidentiary record in this proceeding.

271 Recoveries

272 **Q. During the year ended December 31, 2003, what was the total amount**
273 **collected or refunded through AmerenUE Riders?**

274 A. AmerenUE had total collections from ratepayers of \$359,737 through its
275 Riders during the year ended December 31, 2003.

276 **Q. Did AmerenUE collect its recoveries in accordance with the terms of**
277 **its Riders?**

278 A. Yes.

279 **Q. What is the total cumulative amount of recoveries collected by**
280 **AmerenUE since the inception of Riders EEAC and GEAC?**

281 A. AmerenUE has collected a total of \$877,991 as presented on Company
282 Exhibit 1.0, Schedule 1.0.

283 Conclusion

284 **Q. In conclusion, what is your recommendation?**

285 A. I recommend that the Commission accept the reconciliation of revenues
286 collected under the Coal Tar Riders' factors with the actual cost of coal tar
287 clean up expenditures as presented on ICC Staff Exhibit 1.00, Schedule
288 1.01, Cumulative Status of Recoveries and Costs reflecting an over
289 recovery of \$391,549.

290 **Q. Does this conclude your prepared direct testimony?**

291 A. Yes.

Ameren Union Electric Company
 Cumulative Status of Recoveries and Costs
 For the Year Ended December 31, 2003

| Line No | Description (A) | Cumulative Totals Per Order Docket No. 03-0167 (B) | 2003 Actuals Per UE (C) | Cumulative Totals Per UE (Col B+Col C) (D) | Staff Adjustment (E) | Cumulative Totals Per Staff (Col D+Col E) (F) |
|---------|-----------------------|--|-------------------------|--|----------------------|---|
| 1 | EEAC/GEAC Recoveries | \$ 518,254 (3) | \$ 359,737 (1) | \$ 877,991 (1) | \$ - | \$ 877,991 |
| 2 | Insurance Recoveries | - | - | - | - | - |
| 3 | Total Revenues | \$ 518,254 (2) | \$ 359,737 (2) | \$ 877,991 (2) | \$ - | \$ 877,991 |
| 4 | Total Costs | 483,403 (3) | 329,336 (4) | 812,739 (1) | (326,297) (6) | 486,442 |
| 5 | Over (Under) Recovery | \$ 34,851 (3) | \$ 30,401 (5) | \$ 65,252 (1) | \$ 326,297 (5) | \$ 391,549 |

- (1) Source: UE Annual Report, Schedule 3.0.
- (2) Source: Sum of line 1 and line 2.
- (3) Source: Prior year Order, Docket No. 03-0167.
- (4) Source: UE Annual Report, Schedule 2.0.
- (5) Source: Line 3 less line 4.
- (6) Source: ICC Staff Exhibit 1.00, Schedule 1.02, line 9, column B.

Ameren Union Electric Company
 Adjustment to Remove Costs Associated with the Purchase of 727 Belle St., Alton, Illinois Property
 For the Year Ended December 31, 2003

| Line No | <u>Description</u> (A) | <u>Amount</u> (B) |
|------------|--|--------------------------------|
| 1 | Costs | \$ 329,336 (1) |
| 2 | Less Appraisal Services | (3,500) (2) |
| 3 | Less Madison County Title Fees | (187) (2) |
| 4 | Less Earnest Deposit for 727 Belle St., Alton, Illinois Property | (16,500) (2) |
| 5 | Less Payoff Amount for Purchase of 727 Belle St., Alton, Illinois Property | (307,701) (2) |
| 6 | Plus Credit Due from Overpayment of Cash Settlement for Purchase of 727 Belle St., Alton, Illinois Property | 1,591 (2) |
| 7 | Total Costs per Staff | <u>\$ 3,039 (3)</u> |
| 8 | Costs per Company | <u>329,336 (1)</u> |
| 9 | Adjustment | <u><u>\$ (326,297) (4)</u></u> |

(1) Source: Company Exhibit 1.0, Schedule 1.0, p. 1.3 of 1.5.
 (2) Source: UE response to Staff Data Request LAP-1.04.
 (3) Source: Sum of line 1 through line 6.
 (4) Source: Line 7 less line 8.