

FILED
May 01, 2023
Data Center
Missouri Public
Service Commission

Exhibit No. 48

Ameren – Exhibit 48
Mitchell Lansford
Surrebuttal Testimony and True-Up Direct Testimony
File No. ER-2022-0337

Exhibit No.:
Issue(s):
Witness: Mitchell Lansford
Type of Exhibit: Surrebuttal and True-Up
Direct Testimony
Sponsoring Party: Union Electric Company
File No.: ER-2022-0337
Date Testimony Prepared: March 13, 2023

MISSOURI PUBLIC SERVICE COMMISSION

FILE NO. ER-2022-0337

SURREBUTTAL AND TRUE-UP DIRECT TESTIMONY

OF

MITCHELL LANSFORD

ON

BEHALF OF

UNION ELECTRIC COMPANY

d/b/a Ameren Missouri

**St. Louis, Missouri
March, 2023**

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SURREBUTTAL AND TRUE-UP DIRECT TESTIMONY

OF

MITCHELL LANSFORD

FILE NO. ER-2022-0337

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

2 A. Mitchell Lansford, Union Electric Company d/b/a Ameren Missouri ("Ameren
3 Missouri" or "Company"), One Ameren Plaza, 1901 Chouteau Avenue, St. Louis, Missouri 63103.

4 **Q. Are you the same Mitchell Lansford that filed direct and rebuttal testimony in**
5 **this proceeding?**

6 A. Yes, I am.

7 **I. PURPOSE OF TESTIMONY**

8 **Q. What is the purpose of your surrebuttal and true-up direct testimony in this**
9 **proceeding?**

10 A. This testimony addresses issues raised by the Missouri Public Service Commission
11 Staff ("Staff") and the Office of the Public Counsel ("OPC") related to the following topics: (1)
12 property tax tracker (Staff witness Karen Lyons); (2) tax impairment tracker (OPC witness John
13 S. Riley); (3) Inflation Reduction Act tracker (OPC witness John S. Riley); and (4) continuing
14 plant inventory record (Staff witness Cedric Cunigan). I also provide the Company's revenue
15 requirement, Net Base Energy Costs ("NBEC"), other tracker base amounts and certain other data
16 as true-up for applicable items through December 31, 2022.

1 **Q. Do you have any schedules supporting your surrebuttal testimony?**

2 A. Yes. I am sponsoring Schedules MJL-S1 through MJL-S17 relating to the
3 Company's revenue requirement and NBEC.¹ These schedules are the same as Schedules MJL-D1
4 through MJL-D17 included with my direct testimony, except they were prepared using data as of
5 the true-up cutoff date established by the Commission in this case (December 31, 2022) for items
6 being trued-up. In addition, I am sponsoring Schedule MJL-S18, which is OPC's response to Data
7 Request OPC 1.

8 **II. PROPERTY TAX TRACKER**

9 **Q. Staff witness Lyons states, "[in] order to use the tracker authorized by Section**
10 **393.400 of the Missouri Statutes, the Commission must have established in the utility's prior**
11 **general rate proceeding a level of property tax expense upon which it bases the utility's**
12 **revenue requirement."**² **Is this true?**

13 A. Absolutely not. The relevant excerpt from Section 393.400 is as follows:³

Electrical corporations, gas corporations, sewer corporations, and water corporations shall defer to a regulatory asset or liability account any difference in state or local property tax expense actually incurred, and those on which the revenue requirement used to set rates in the corporation's most recently completed general rate proceeding was based.

14 The statute makes no reference to the Commission establishing a level of property tax
15 expense in a utility's prior general rate proceeding. Although I am not an attorney and am not
16 offering a legal opinion, given this language I see no reason why the Commission lacks the ability
17 in this case to determine the amount of property taxes on which the revenue requirement used to
18 set rates in the corporation's most recently completed general rate proceeding was based.

¹ My direct testimony also included a Schedule MJL-D18, which provides cash working capital information that is not affected by the true-up.

² File No. ER-2022-0337, Karen Lyons Rebuttal Testimony, p. 3 ll. 7-10.

³ Section 393.400, RSMo. (Cum. Supp. 2023) (emphasis added).

1 Establishing amounts just like this, even when prior rate cases were settled, is routinely done by
2 the Commission in Accounting Authority Order ("AAO") cases when the amount of some item
3 that underlies the revenue requirement used to set current rates is established by the Commission
4 so differences from that amount post-the rate case can be deferred pursuant to the AAO. Specific
5 to this rate review, Staff and the Company have even put forward recommendations for this amount
6 and the Company has stated it would accept either amount, removing any barrier claimed by Staff
7 to the Commission's ability to set such amount.

8 **Q. If the Commission established Staff's recommended property tax base**
9 **amount,⁴ what would be the Company's deferral as of December 31, 2022?**

10 A. This deferral would be \$3,239,388 as of December 31, 2022, included in the
11 Company's rate base and amortized over a reasonable period of time, as determined by the
12 Commission.⁵ The Company recommends an amortization period of two years given that it has
13 generally, on average, filed rate cases every two years.

14 **Q. Is there any other information that indicates applying the property tax tracker**
15 **authorized by Section 393.400 of the Missouri Statutes in accordance with the Company's**
16 **position is reasonable?**

17 A. Yes. In a stipulation and agreement in File No. WR-2022-0303, Staff and other
18 parties agreed to the following:⁶

⁴ File No. ER-2022-0337, Karen Lyons Rebuttal Testimony, p. 4 ll. 16-20.

⁵ Section 393.400.2 RSMo..

⁶ File No. WR-2022-0303, Stipulation and Agreement filed March 3, 2023, page 3.

12. **Property Tax:**

a. The amount of revenue requirement used to set rates for property tax shall be set at \$ 34,063,451, pursuant to Section 393.1275, RSMo.

b. MAWC's deferred property tax balance as of December 31, 2022, shall be included in rate base and amortized over 60 months.

1
2 It is my understanding that just like the Company, Missouri American Water Company did
3 not have a stated property tax amount ordered by the Commission in its immediately preceding
4 rate review,⁷ yet Staff has agreed that this is no barrier to tracking property tax changes. If, as
5 Staff witness Lyons claims, the Commission "must have established in the utility's prior general
6 rate proceeding a level of property tax expense upon which it bases the utility's revenue
7 requirement," then Item 12.b in the above settlement could not be implemented since there would
8 be no way to know what "MAWC's deferred property tax balance" is.⁸ Staff's agreement in File
9 No. WR-2022-0303 is identical with the Company's position to track and record property tax
10 deferrals beginning September 1, 2022, and demonstrates that there is no need for the Commission
11 to have explicitly set a property tax base in its last rate case order for the Company.

12 **Q. Staff claims it is unable to calculate the Company's regulatory asset balance**
13 **in its rebuttal testimony because the Company did not support an adjustment in its direct**
14 **testimony.⁹ How do you respond?**

15 A. This information was provided to Staff on January 31, 2023, in conjunction with
16 the Company providing its true-up data. Further, Staff could have requested this information at

⁷ File No. WR-2022-0303, Kimberly Bolin Rebuttal Testimony, p. 10 ll. 1-28 and p. 11 ll. 1-20.

⁸ Note that the reference in the stipulation to Section 393.1275 is a reference to the statutory section assigned by SB 745 from the 2022 legislative session, which is the bill that adopted the property tax tracker provisions. However, I am advised by counsel that when the section was codified by the Missouri Revisor of Statutes, it was codified as Section 393.400.

⁹ File No. ER-2022-0337, Karen Lyons Rebuttal Testimony, p. 5 ll. 1-2.

1 any point from September 1, 2022 (when the Company began making deferrals) to February 15,
2 2023 (when Staff filed its rebuttal testimony). Also, for clarity, the Company did describe the
3 adjustment it intended to make in its direct testimony but obviously could not state an amount
4 since the deferral did not start until after the Company filed its direct testimony.

5 **III. TAX IMPAIRMENT TRACKER**

6 **Q. In support of its recommended and novel "tax impairment tracker," OPC**
7 **describes the Company's tax impairments as permanent tax deductions.¹⁰ Is this accurate?**

8 A. No. These deductions are clearly labelled as temporary differences (or temporary
9 deductions) on the Company's tax return.¹¹ OPC further acknowledged and corrected its prior
10 understanding of these deductions via its response to Company Data Request UE 1, which is
11 attached hereto as Schedule MJL-S18. Permanent differences permanently reduce a company's tax
12 liabilities, whereas temporary differences reduce a company's tax liabilities in a current period and
13 defer those tax liabilities to be collected by the IRS in a future period.

14 **Q. OPC claims that neither the Company nor Staff recognize tax deductions**
15 **relating to impairments in their respective cost-of-service calculations.¹² Is this true?**

16 A. No. The impairments OPC is referring to are plant-related temporary tax
17 differences. Plant-related temporary tax differences are accounted for as Deferred Tax Liabilities
18 ("DTLs") and recorded to Federal Energy Regulatory Commission ("FERC") account 282. These
19 same DTLs are combined with other DTLs and offset (i.e., lower, to the benefit of customers) both
20 the Company's and Staff's rate base amounts included in the respective cost-of-service

¹⁰ File No. ER-2022-0337, John Riley Rebuttal Testimony, p. 6, l. 15, p. 7 l. 8, and p. 7, l. 10.

¹¹ *Id.*, see also Riley rebuttal workpapers and Schedule MJL-S18.

¹² *Id.*, p. 6 ll. 1-2.

1 calculations. The total FERC account 282 offset to rate base included in the Company's true-up
2 cost-of-service calculation is \$2,824,849,777.

3 **Q. How are plant-related DTLs treated for regulatory purposes between rate**
4 **reviews?**

5 A. All changes in plant-related deferred tax liabilities, including those relating to
6 impairments, offset Plant-in-Service Accounting ("PISA") deferrals made between the Company's
7 rate reviews. That is to say, if the Company records an impairment for tax purposes that results in
8 a greater tax deduction (temporary tax difference) in that tax year, the Company's PISA deferral is
9 reduced from the level that it otherwise would have been if that tax impairment were not recorded.

10 **Q. Please summarize your response to OPCs position on tax impairment**
11 **deductions.**

12 A. OPCs position was falsely premised on the idea that impairment tax deductions are
13 permanent deductions. That is not true. Impairment tax deductions are temporary deductions. If
14 OPCs position were adopted, the Company would provide customers with the benefits associated
15 with these deductions two to four times. Once via a rate base offset in a general rate review, another
16 via a reduction in tax expense in a general rate review, another through reductions in the PISA
17 deferral, and yet another in OPCs proposed impairment tracker. Providing customers with double
18 the benefit of a tax deduction is equally as inappropriate as if the Company were to double-recover
19 its costs. The Commission should reject OPCs position in full.

1 **IV. INFLATION REDUCTION ACT TRACKER**

2 **Q. OPC claims that the cost of the Corporate Minimum Tax ("CMT") will be**
3 **recognized in the income tax expense which will be built into the revenue requirement.¹³**

4 **How do you respond?**

5 A. Based on this claim from OPC, its position must be to treat the CMT payments as
6 "flow-through" items for ratemaking purposes. I addressed in my rebuttal testimony why doing so
7 is unreasonable. That said, if the Commission is determined to apply this method to the CMT, the
8 costs of the CMT must still be tracked if the benefits from the Inflation Reduction Act ("IRA") are
9 also tracked.

10 **Q. OPC claims the Company has recovered income tax expense amounts far**
11 **greater than its income tax payments since 2012 and no one ever suggested that all that**
12 **unused income tax expense be recorded as a deferred tax liability.¹⁴ How do you respond?**

13 A. A Deferred Tax Liability ("DTL") is tax expense that has been incurred "today" and
14 reported in a company's income statement, but the tax payment (liability) is deferred to a future
15 period, i.e., the Company will still have to pay the taxes. The difference between income tax
16 expense recorded in the Company's income statement and related income tax payments directly
17 results in the recognition of the Company's \$2,991,872,325 reduction to rate base in this case for
18 net Deferred Tax Liabilities ("DTLs") as of December 31, 2022. Said another way, the unused
19 income tax expense, as OPC refers to it, has been recorded as DTLs and those DTLs do offset rate
20 base.

¹³ File No. ER-2022-0337, John Riley Rebuttal Testimony, p. 4 ll. 12-13.

¹⁴ *Id.*, p. 4 ll.16-20.

1 **Q. OPC appears to oppose the inclusion of production and investment tax credit**
2 **carryforward Deferred Tax Assets ("DTAs") in rate base.¹⁵ How do you respond?**

3 A. OPC claims that unused or carried forward production and investment tax credits
4 have not cost the Company any money so including a return on that DTA would be applying a
5 return to a "nonmonetary" asset. Reflecting a return on a credit carryforward DTA is offsetting
6 value for the Company providing customers with the benefit of the tax credits (through a reduction
7 to tax expense in a revenue requirement used to set customer rates) before the Company receives
8 the benefit from the Internal Revenue Service ("IRS"). The Company's IRA tracker proposal
9 includes tracking the tax credit benefits when they are produced (i.e., before the Company receives
10 the benefit from the IRS) and for a variety of reasons the Company's tax appetite may not allow it
11 to claim certain tax credits in a particular tax year. Any tax credits left unclaimed on the Company's
12 tax return in a given tax year are carried forward via the recognition of a DTA. If credit
13 carryforward DTAs are not included in rate base, providing the benefits of tax credits to customers
14 well in advance of when the Company can claim those benefits from the IRS is equivalent to the
15 Company providing customers with an interest free loan, i.e., the carried forward tax credits *do*
16 *cost the Company money*. For example, if the Company's revenue requirement used to set customer
17 rates is reduced by \$100 for tax credits produced "today" and the Company cannot claim those tax
18 credits with the IRS to reduce its tax liabilities for 10 years into the future, it will have provided
19 customers with a 10-year \$100 loan while receiving no offsetting "interest" during that period. The
20 solution is a common one and it is to include credit carryforward DTAs in rate base and in this
21 instance track this effect, along with the cost of the CMT, and all the benefits the Company has
22 proposed for inclusion in the requested IRA tracker.

¹⁵ *Id.*, p. 5 ll. 1-8.

1 **Q. OPC has no issue with tracking all the benefits of the IRA but takes exception**
2 **to tracking any of the costs. Would the Company support any IRA tracker proposal that**
3 **includes tracking of all of the benefits but none of the costs?**

4 A. Absolutely not. The Company has proposed a fair and reasonable tracking
5 mechanism. Any completely one-sided tracker proposal should be rejected. The Company would
6 request that the Commission deny its IRA tracker proposal, along with all other parties' proposals,
7 before adopting a tracker that only includes the benefits from the IRA.

8 **V. CONTINUING PLANT INVENTORY RECORD**

9 **Q. Staff alleges the Company has potentially violated the Commission's rules**
10 **related to accounting for the Company's Continuing Plant Inventory Record ("CPR").¹⁶**
11 **How do you respond?**

12 A. First, I take exception to Staff making its recommendation based on its position of
13 *potential* non-compliance. The Commission should dismiss Staff's position based solely on Staff's
14 admitted uncertainty as to whether the Company is or is not in compliance. If, according to Staff,
15 the Company is potentially non-compliant with the relevant rules then, of course, it stands to reason
16 Staff believes there is potential that the Company is also in compliance. It is unreasonable to
17 require the Company to change its accounting practices when those practices, according to Staff,
18 may be in compliance with the relevant rules. Second and of even more importance, the Staff is
19 simply wrong because the Company is in full compliance with the Commission's rules.

¹⁶ File No. ER-2022-0337, Cedric Cunigan Rebuttal Testimony, p. 4, l. 14.

1 **Q. Please specifically address Staff's criticisms relating to the Company's CPR**
2 **and compliance with the Commission's rules.**

3 A. In Staff's rebuttal testimony it points out the Company must submit a depreciation
4 study, database, and CPR that contains annual dollar additions and dollar retirements by vintage
5 year and year retired.¹⁷ This data was provided, just as it has been in 9 other rate cases over the
6 past roughly 17 years. Although the CPR data provided all those times is the same as that provided
7 in this case, neither Staff nor any other party has ever claimed that the CPR did not comply with
8 the Commission's rules. Staff further references that the Company's CPR must include the quantity
9 placed in service by vintage year and the average cost be recorded for each category of mass
10 property.¹⁸ Indisputably, the Company's CPR contains this information. The following is an
11 excerpt of the Company's CPR that clearly denotes the quantity placed in service by vintage year
12 and average cost pertaining to each record:

Utility Account	Vintage	Retirement Unit	Activity Quantity	Average Cost
1364000-Poles-Towers-Fixtures	2022	POLE, WOOD, 40'	106	\$3,383.64
1364000-Poles-Towers-Fixtures	2022	ANCHOR, COMPLETE W/ ROD, WIRE, ETC	32	\$119.39
1364000-Poles-Towers-Fixtures	2022	CROSSARM, 7'-11'	15	\$1,300.49
1364000-Poles-Towers-Fixtures	2022	POLE, WOOD, 30'	17	\$473.16
1364000-Poles-Towers-Fixtures	2022	CROSSARM ASSEMBLY, DOUBLE, DEAD-END	9	\$1,293.02
1364000-Poles-Towers-Fixtures	2022	CROSSARM, 7'-11'	89	\$1,584.30
1364000-Poles-Towers-Fixtures	2022	POLE, WOOD, 45'	8	\$1,642.18
1364000-Poles-Towers-Fixtures	2022	POLE, WOOD, 50'	4	\$6,702.48
1364000-Poles-Towers-Fixtures	2022	POLE, WOOD, 30'	2	\$169.48

13 Staff's true underlying criticism is it believes estimating the vintage of retired categories of
14 mass property *may* not be appropriate. In my rebuttal testimony and the rebuttal testimony of
15 Company witness John Spanos, the Company has already shown that this criticism is unreasonable
16 and is not supported (in fact is contradicted) by the rule in question, i.e., the Commission's rule
17 requiring that the Company keep its books according to the FERC Uniform System of Accounts

¹⁷ File No. ER-2022-0337, Cedric Cunigan Rebuttal Testimony, p. 3 l. 14-15.

¹⁸ *Id.*, p. 3 ll. 19-20.

1 ("USoA"). Specifically, the USoA allows for the use of estimates in determining the book cost of
2 electric plant retired:¹⁹

D. The book cost of electric plant retired shall be the amount at which such property is included in the electric plant accounts, including all components of construction costs. The book cost shall be determined from the utility's records and if this cannot be done it shall be estimated. Utilities must furnish the particulars of such estimates to the Commission, if requested. When it is impracticable to determine the book cost of each unit, due to the relatively large number or small cost thereof, an appropriate average book cost of the units, with due allowance for any differences in size and character, shall be used as the book cost of the units retired.

3 The USoA rules explicitly allow for the use of estimates when determining retirement amounts.
4 Further, the USoA rules acknowledge there are instances where it is impracticable to determine
5 exact retirement due to the relatively large number or small cost of an item. In my rebuttal
6 testimony I have already demonstrated that specific identification of the vintage of every unit of
7 mass property is impracticable. There is no basis on which to order the Commission to change its
8 accounting practices for mass property accounts, which conform to the USoA.

9 **Q. Staff also appears to express concerns about the impact the Company's**
10 **retirement estimates for categories of mass property may have on its depreciation study.**
11 **How do you respond?**

12 A. Depreciation studies determine *estimates* of the reduction in value of an asset (i.e.,
13 depreciation) with the passage of time. There is no reason why Staff could not adjust its
14 depreciation study in some way, that is use a different estimate of the reduction in value, should it
15 not agree with the Company's estimated retirements for categories of mass property.

¹⁹ 18 CFR Part 101, Electric Plant Instructions 10D.

1 **Q. In both Staff's direct and rebuttal testimonies it states an intention to have**
2 **further conversations with the Company about its concerns with the Company's CPR or**
3 **perform additional discovery. Did the Staff request these conversations or perform this**
4 **incremental discovery?**

5 A. No. No conversations were requested, nor was any incremental discovery
6 performed. Staff's entire position is based on one response to one data request. This is why Staff
7 refers to its position as based on its "understanding,²⁰" and why it can only (incorrectly) claim that
8 the Company is "potentially" failing to comply with relevant rules. The Company reached out to
9 Staff multiple times to discuss its concerns, and the Company received no response.

10 **VI. TRUE-UP REVENUE REQUIREMENT**

11 **Q. What is the purpose of your true-up testimony in this proceeding?**

12 A. Pursuant to the Commission's *Order Setting Procedural Schedule and Adopting*
13 *Test Year* in this case, Ameren Missouri provided updated data through December 31, 2022 for
14 items to be trued-up in this case.²¹ The purpose of this portion of my testimony, including the
15 attached schedules MJL-S1 through MJL-S17, is to provide the Commission with the Company's
16 revenue requirement, as updated through the true-up date of December 31, 2022 using the true-up
17 data for those items.²²

²⁰ File No. ER-2022-0337, Cedric Cunigan Rebuttal Testimony, p. 4, l. 2.

²¹ The Company provided true-up data for each item listed in footnote 4 of the referenced order. True-up data was provided for additional items, as requested by other parties.

²² I followed the same methodology for each item being trued-up as was utilized in proposing a revenue requirement value for each item in my direct testimony.

1 **Q. What do Schedules MJL-S1 through MJL-S17 attached to this testimony**
2 **contain?**

3 A. Schedules MJL-S1 through MJL-S16 show each component of the Company's
4 revenue requirement, as trued-up through December 31, 2022. In my direct testimony, I quantified
5 the Company's revenue requirement using certain pro forma adjustments (projections) through the
6 true-up date, as \$315,629,000 more than the pro forma operating revenues at present rates. After
7 replacing all projected amounts with actual results through the true-up date, the Company's
8 revenue requirement is \$223,481,000 more than retail operating revenues at present rates.
9 Consequently, it is necessary to set retail customer rates designed to produce \$2,941,976,000
10 annually in order to provide Ameren Missouri an opportunity to collect and recover its cost of
11 service, including an opportunity to recover its cost of capital. Schedule MJL-S17 shows the
12 calculation of total net base energy costs, and the calculation of the Factor BF values²³ for the
13 summer and winter periods. These calculations are based on the applicable true-up data for the
14 components of net base energy costs through December 31, 2022.

15 **Q. Please provide any other regulatory mechanism base amounts that were**
16 **updated for true-up data in this case.**

17 A. Other tracker base amounts updated for true-up data, as necessary, are as follows:

Tracker	True-up Base Amount
Pension	\$(88,252,272)
OPEB	\$(30,968,640)
RESRAM	\$1,722,680
RES	\$9,144,112

²³ As defined in Rider FAC.

Surrebuttal and True-Up Direct Testimony of
Mitchell Lansford

Property Tax	\$170,509,624
Excess ADIT	\$(47,747,436)
FIN 48	\$0
IRA	\$0

1 **Q. Does this conclude your surrebuttal testimony?**

2 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 Adjust)
Its Revenues for Electric Service.)

Case No. ER-2022-0337

AFFIDAVIT OF MITCHELL LANSFORD

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

Mitchell Lansford, being first duly sworn states:

My name is Mitchell Lansford, and on my oath declare that I am of sound mind and lawful age; that I have prepared the foregoing *Surrebuttal and True-Up Direct Testimony*; and further, under the penalty of perjury, that the same is true and correct to the best of my knowledge and belief.

/s/ Mitchell Lansford _____
Mitchell Lansford

Sworn to me this 13th day of March, 2023.