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| *Exhibit No.:* | |
| *Issues:* | *Regulatory Lag; MISO Transmission Expense & Revenue Tracker; Ameren Services Allocations; FERC ROE Complaint* |
| *Witness:* | *Lisa M. Ferguson* |
| *Sponsoring Party:* | *MoPSC Staff* |
| *Type of Exhibit:* | *Rebuttal Testimony* |
| *Case No.:* | *ER-2016-0179* |
| *Date Testimony Prepared:* | *January 20, 2017* |

# MISSOURI PUBLIC SERVICE COMMISSION

## COMMISSION STAFF DIVISION

## AUDITING DEPARTMENT

# REBUTTAL TESTIMONY

# OF

# LISA M. FERGUSON

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

## CASE NO. ER-2016-0179

*Jefferson City, Missouri*
*January 2017*

** **Denotes Highly Confidential Information** **

**NP**

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**UNION ELECTRIC COMPANY,**
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**CASE NO. ER-2016-0179**

**REBUTTAL TESTIMONY**

**OF**

**LISA M. FERGUSON**

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

**CASE NO. ER-2016-0179**

Q. Please state your name and business address.

A. Lisa M. Ferguson, 111 N. 7th Street, Suite 105, St. Louis, MO 63101.

Q. By whom are you employed?

A. I am employed by the Missouri Public Service Commission ("Commission") as a member of the Auditing Staff ("Staff").

Q Are you the same Lisa M. Ferguson who contributed to Staff's *Revenue Requirement Cost of Service Report* filed December 9, 2016 in this case?

A. Yes, I am.

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

A. My rebuttal testimony will address Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri") witness Michael M. Moehn's direct testimony on regulatory lag. I will also discuss the specific components of Company witness Lynn M. Barnes direct testimony requesting alternative regulatory treatment of Ameren Missouri's transmission expense and revenue. Staff witness Mark L. Oligschlaeger, in separately filed rebuttal testimony, will address general policy implications in regard to deferral mechanisms such as the tracker proposed by Ameren Missouri in direct testimony in this rate proceeding.

I will also further address concerns relating to Ameren Services Company ("Ameren Services") allocation costs for common services that are provided by Ameren Services to Ameren affiliate entities.

I will finish with clarification of Staff's position on the FERC ROE refund issue that I raised in my direct testimony as part of Staff's Cost of Service Report filed on December 9, 2016.

**REGULATORY LAG**

Q. Does Ameren Missouri request special ratemaking mechanisms in this case in order to address what it believes to be "regulatory lag"?

A. Yes. Ameren Missouri requests to maintain its fuel adjustment clause as well as proposes a transmission expense and revenue tracking mechanism due to incurrence of increasing levels of transmission expense between rate cases.

Q. What is "regulatory lag?"

A. "Regulatory lag" is the period of time that elapses between the occurrence of an event and any related consequences and when that occurrence and related consequences are reflected in utility rates.

Q. How does Staff view the phenomenon of regulatory lag?

A. As Staff describes in its report in Case No. EW-2016-0313 ("Report"), the utilities in Missouri are monopolies, meaning they have been granted the ability, through a certificate of convenience and necessity by the Commission, to be the sole providers of utility services within their service territories. Regulatory lag is an important component of rate of return regulation because it creates a quasi-competitive environment for utilities. Regulation in Missouri is a surrogate for the competition that exists in the competitive marketplace.

Regulatory lag provides a strong incentive for managers to keep costs low once rates are set in a rate case in order to maintain earnings at a level as close to their authorized return as possible. Competitive firms must use caution when raising their prices because when the product remains the same; demand will usually increase as prices decrease or conversely demand will usually decrease as prices increase. This provides an incentive against competitive companies raising their prices too dramatically, or else customers may choose to get that product or service from a competitor. Regulatory lag provides this same constraint on monopoly utilities. Similar to competitive businesses who must work under a price constraint, utilities must also seek ways to operate their business more efficiently in order to not be negatively affected by expense or investment increases, or revenue decreases, during the period of time that rates are in effect. Although utilities tend to focus on the negative effects of regulatory lag, utilities can also benefit from regulatory lag if during the time rates are in effect expenses or investment decreases or revenues increase.

Q. How do special ratemaking mechanisms affect regulatory lag?

A. The use of trackers and other single-issue ratemaking mechanisms typically reduce or eliminate regulatory lag for a utility’s increasing cost items without considering any offsetting reduced costs or revenue increases that may be occurring during the same time period. Trackers or riders are typically requested by a utility for selected expenses. Once a special ratemaking mechanism is utilized, recovery of the covered items is virtually guaranteed. This reduces the pressure on a utility’s management to minimize costs and may even lead to imprudent spending.

Q. How does rate of return regulation work in general?

A. A utility's revenue, expense, and rate base levels are constantly changing. When a utility files for a rate change in Missouri, a specific 12-month historical period is chosen to develop a cost of service for the utility that is based on the most current levels of revenue, expense, and investment. This matching of revenues, expenses, and rate base is essential to develop a revenue level that allows the utility to recover all prudently incurred expenses as well as the opportunity to earn a reasonable return on rate base. Once the utility's rates have been set, any one of these factors may change directly or indirectly, which in turn will determine what level of earnings may be achieved.

Q. Please explain how regulatory lag is a natural component of rate of return regulation.

A. Once the utility's rates have been set, and any change occurs to that revenue, expense or investment level, regulatory lag results with either a positive or negative impact on a utility. In addition, regulatory lag on some utility cost of service components may have a positive financial impact on a utility, while at the same time regulatory lag on other items may have a negative financial impact.

Q. What are some examples of positive regulatory lag?

A. One positive example is when a utility has a certain level of payroll set as part of a rate case and subsequent to that rate case the utility decides to reduce its workforce. All else being equal, the utility will enjoy a higher level of expense for payroll in its rates while actually incurring a level of expense that could be much less. Another example is if a utility decides to ramp up its investment prior to rates being established in a rate case and then reduces its investment once rates are in effect. The investment will continue to depreciate, however the return that the utility enjoys will be applied to the larger rate base as established in the most current rate case.

Q. Does Ameren Missouri claim that regulatory lag has had a negative effect on earnings?

A. Yes. Ameren Missouri witness Michael M. Moehn states in direct testimony on page 22, line 17 to page 23, line 3 and on page 23, line 21 to page 24, line 5, respectively, as follows:

> These challenges include the financial realities facing utilities as they attempt to maintain and transform the energy delivery systems they have today and satisfy their customers' basic needs and expectations, while also providing fair returns to the shareholders on whom the entire utility system depends. Those financial realities are manifest in the fact that Ameren Missouri's system does have significant needs that are building…Those financial realities are also manifested in the fact that, despite diligently managing its expenses, Ameren Missouri finds itself at this time seeking its seventh rate increase in the past ten years.
>
> * * * *
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> . . . Moreover, except in limited circumstances, the Commission has not historically utilized other mechanisms to address the significant regulatory lag inherent in Missouri's system of regulation, in particular, to address the lag that exists from the huge capital investments we make in our system…The Commission has also always used only a historic test year approach, which when costs are rising (as they have been and are, without an available offset) means we are always behind.

Q. Does Ameren Missouri seek to address regulatory lag in this current rate proceeding?

A. Yes. Ameren Missouri proposes the establishment of a transmission revenue and expense tracker as described in Ms. Lynn Barnes' direct testimony.

Q. Does the situation Mr. Moehn describes in his direct testimony give a complete picture of Ameren Missouri's earnings situation?

A. No. As mentioned earlier, on the whole, regulatory lag can be a detriment or a benefit to a utility. That is why it is important to look at a utility's earnings over a length of time to see what regulatory lag is truly doing to utility performance. For example, there was a significant period of time from when the Callaway nuclear generating station became fully operational and used for service in 1984 up to 2007 that Ameren Missouri did not need to request a change in permanent rates. This was due to the positive regulatory lag that offset any increase in expense or investment that the utility was experiencing at the time. The fact that certain costs in isolation may be increasing over time should not be the driving factor to implement single-issue ratemaking mechanisms. However, as explained in the rebuttal testimony of Staff witness Dietrich, and as stated in Staff's Report in Case No. EW-2016-0313, it may be appropriate to implement various ratemaking mechanisms for new initiatives such as promotion of grid automation.

Q. Are there indications that Ameren Missouri's earnings are currently adequate?

A. ** **

Q. What information does a surveillance report contain?

A. The surveillance reports I reference above are quarterly reports that an electric utility files that show actual earnings results. These reports are required as part of the Commission rules governing an electric utility's use of a fuel adjustment clause which Ameren Missouri was first authorized to use in Case No. ER-2008-0318.

Q. Do the rates of return in the FAC surveillance reports reflect any ratemaking adjustments?

A. No. The revenues reported in these reports are not weather normalized, nor are any of the expenses subject to annualization or normalization adjustments. Due to this, the return on equity ("ROE") results found within the surveillance reports do not necessarily parallel the revenue requirement calculations used in general rate proceedings to determine whether a utility's rates should be increased or decreased.

Q. Is it possible that Ameren Missouri's ROE percentages as reported in FAC surveillance could be understated or overstated compared to the findings made in general rate proceedings?

A. Yes. However, the general trend in earnings as shown in a utility's surveillance reports over time is at least a general indication of the sufficiency of a utility's rates.

## MISO TRANSMISSION EXPENSE & REVENUE TRACKER MECHANISM

Q. Please provide a brief description of Ameren Missouri's proposal regarding transmission expense and revenue.

A. Ameren Missouri witness Ms. Barnes discusses in her direct testimony on page 15, lines 6-8 that Ameren Missouri believes that the Commission reached an incorrect conclusion in Case No. ER-2014-0258, in that most transmission charges were ineligible for inclusion in the fuel adjustment charge ("FAC"). That being said, Ameren Missouri believes that an acceptable alternative to FAC inclusion would be for the majority of transmission expenses and all transmission revenues to be included in a tracking mechanism beginning with the effective date of rates in this rate case.

Q. What is a tracker?

A. A tracker is a deferral mechanism where a utility's actual level of an incurred cost is compared to the level of recovery for the cost in rates, until the utility's next rate case. Any deferred amount is eligible to be reflected in the utility's rates in its next general rate proceeding, normally through an amortization to expense.

Q. What specific transmission expenses and revenues does Ameren Missouri propose to defer in a tracking mechanism?

A. Ameren Missouri proposes to track actual incurred transmission expense booked to FERC account 565, with the exception of a small portion which is still included in the FAC, and all actual transmission revenue booked to FERC account 456.1[1]. Ameren Missouri proposes the remainder of the transmission costs above the amount included in the FAC to be included in essentially a two-way tracker with the creation of a regulatory asset or liability to reflect the difference between the base level of net costs/revenues included in the revenue requirement in this case and the actual net costs/revenues incurred. In the next rate case, that regulatory asset/liability balance is proposed to be amortized to expense over five years with the unamortized balance to be included in rate base.

Q. Why does Ameren Missouri believe it is necessary for transmission expense and revenue to be addressed by a tracker?

A. Ameren Missouri witness Lynn M. Barnes indicates that tracker treatment is appropriate because transmission charges are large, volatile and uncontrollable.

[1] As determined in the Report and Order in Case No. ER-2014-0258, the costs that are included in the FAC as of the effective date of rates in that case (May 30, 2015) are: costs to transmit electric power it did not generate to its own load (true purchased power or non-native load) and costs to transmit excess electric power it is selling to third parties to locations outside of MISO (off-system sales). Ameren Missouri calculates this to be approximately 1.86% of total transmission costs that are currently included in the FAC.

Q. Does Staff oppose all tracker mechanisms?

A. Staff is not opposed to all tracker mechanisms. However, tracker mechanisms should be utilized on a case-by-case basis. A deferral mechanism such as a tracker should only be used for costs that show unusual characteristics making it hard to reflect accurately in rates, such as costs that are volatile, costs for which little or no historical data is available, and costs imposed by Commission mandate. The transmission expenses and revenues Ameren Missouri seeks to include in a tracker do not meet these criteria.

Q. Please explain the magnitude of transmission revenue and expense and its impact on Ameren Missouri.

A. Ameren Missouri witness Lynn M. Barnes states that the magnitude of transmission expense is very large and increasing. However, it is clear by looking at the transmission expense chart attached to this rebuttal testimony as Schedule LMF-r1 that really the only transmission charge that has seen significant increases in the past five years is the Schedule 26A cost, which is a Multi-Value Project rate that is charged for reliability and transmission system expansion costs, not all transmission costs. While it is true that transmission expense incurred by Ameren Missouri is large, it is also offset by a large amount of transmission revenue. On page 16, Ameren Missouri witness Barnes lists the actual level of transmission expense incurred for the period April 2015 to March 2016, and the projected level of transmission expense for the period of April 2016 to December 2020. However, she does not list the actual and projected levels of transmission revenue that have and are expected to continue to offset the level of depicted transmission expense. This makes the expected financial impact of Ameren Missouri's transmission expense appear to be larger than it may be in actuality. Please refer to Highly Confidential Schedule LMF-r1 for a history of transmission expense and revenue for Ameren Missouri. The combination of the total transmission expense with total transmission revenue from that schedule is shown in the chart below:

** ______________________

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*Staff has been unable to obtain budgeted/forecasted transmission revenue beyond 2017 as part of Staff Data Request No. 0523. 2017 transmission expense and revenue is budgeted/forecasted.

**For 2016, Staff used actual amounts for January through September and used a forecast for October through December since that information is not yet available to Staff. Staff will provide an updated table in its surrebuttal testimony reflecting actual 12 month results.

Q. Did Ms. Barnes' estimates of 2017 MISO transmission revenues and expenses set out in her direct testimony turn out to be accurate?

A. No. The chart above shows that Ameren Missouri is correct in that net transmission expense is increasing but the extent of detriment is not to the extent that is portrayed by Ameren Missouri. In fact, the expected increase in Schedule 26A transmission expense, which is the largest category of MISO transmission expense charged to Ameren Missouri, is not as high as Ameren Missouri initially projected in this case. Ameren Missouri projected 2017 Schedule 26A costs to initially be an increase of **____ ** as of its direct filing on July 1, 2016. However, an updated estimate as of October 2016 of 2017 Schedule 26A costs over 2016 Schedule 26A costs shows an increase of **____ **, which is significantly below the initial estimated increase.

Q. Has Ameren Missouri's transmission revenue increased over the historical time period that transmission expense has been analyzed?

A. Transmission revenue has varied from year-to-year, but it basically has been stable for the past five years and is budgeted to increase in 2017.

Q. Did Staff review any budget or forecast transmission data as part of its analysis?

A. Yes. Staff was able to receive transmission expense data as part of Ameren Missouri's response to Staff Data Request No. 0523 as far out as 2021; however, Staff was only provided transmission revenue budgeted for 2017.

Q. Does Staff believe transmission expense and revenue are volatile?

A. No. A historical analysis of transmission revenue and expense shows that the transmission expense has steadily increased; however, the level does not erratically rise and fall over the years. "Volatility" means showing a sharp fluctuation of costs, and "fluctuation" suggests an irregular rise and fall in the number or amount with no discernable trend. However, the evidence suggests that Ameren Missouri's transmission expense over time is neither volatile nor fluctuating. Ameren Missouri's recent historical transmission expense levels show a steady increase, as do the forecasts relied upon by Ms. Barnes. This situation can be dealt with by Ameren Missouri through proper filing of rate cases and control of other costs and revenue.

Q. Does Staff believe that if Ameren Missouri does not receive a tracker mechanism for transmission expense and revenue, it will suffer undue financial hardship?

A. No. Staff's understanding is that actual annual transmission expenses and revenues are largely determined by January of each year. Ameren Missouri can time its rate cases, as they have successfully done so in the past to pick up investment, payroll and fuel contracts, to include all known changes in transmission expense and revenue.

Ameren Missouri is a stakeholder in the MISO transmission process and has some forewarning of the direction of transmission revenue and expense prior to incurring actual costs. Ameren Missouri as a stakeholder can participate in the MISO planning advisory committee, planning subcommittees and sub-regional planning meetings. The sub-regional planning meetings were developed to encourage an open and transparent planning process. Early in the process, stakeholders will participate in discussions of planning issues and proposals on a more local basis to discuss projects, issues and concepts that are potentially driving new transmission expansion on the grid. Participation in these committees can provide Ameren Missouri knowledge to assist them in timing of future rate case filings.

Q. Has Ameren Missouri in the recent past been able to "absorb" the impact of increasing transmission expenses without undue harm to its reported earnings?

A. It appears so. Staff has reviewed the FAC quarterly surveillance reports required to be filed by Ameren Missouri for approximately the last five years, with the results shown in the chart below:

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This chart shows that ** **

[2] Ameren Missouri has historically provided 4th quarter earnings results to Staff through surveillance reports in March of the following year. Staff does not at this time have Ameren Missouri's 4th Quarter 2016 earnings.

[3] The Commission authorized ROE of 9.8% in Case No. ER-2012-0166 was in effect January 2, 2013 through May 29, 2015. The Commission authorized ROE of 9.53% in Case No. ER-2014-0258 went into effect on May 30, 2015 and will remain in effect through May 27, 2017. Therefore, an authorized ROE of 9.8% was in effect for approximately two-thirds of the second quarter of 2015 time period.



NP

Q. On page 17, lines 15-17 to page 18, lines 1-5 of Ameren Missouri witness Lynn M. Barnes' direct testimony, she states:

> The level of transmission charges reflected in base rates in our last rate case was $29.5 million. However, from June 1, 2015 through May 31, 2016 (the period since our rates were re-set and transmission charges were removed from the FAC), we have paid $40.2 million in transmission charges, meaning we have absorbed $10.7 million during that one-year period. ** ____________________ **

Q. Does Staff agree with this assessment?

A. No. If transmission costs are considered in isolation, then what is described by Ameren Missouri witness Barnes might be correct. However, any assessment of the adequacy of utility earnings must take into account all relevant factors (revenues, expense and rate base) to have any validity. As an example, during this same time period, in November 2015, Ameren Missouri severed a number of employees from the Company. The resulting reduction in payroll expense is clearly an offset, albeit partially, of the increase in transmission expense. In addition, during this same time period Ameren Missouri was earning close to and in excess of its authorized ROE. The ROE may have been even higher in June 2015 if not for the $69 million write-off associated with the Callaway II project and the write-off for the Noranda AAO deferral. It is clear that in order for Ameren Missouri to ** ____________________ ** during this time period, there must have been cost decreases elsewhere to offset the cost increases for transmission expense.



NP

Q. Has the Commission denied similar requests for tracking mechanisms for transmission expense and revenue in the past?

A. Yes. There are several cases that support Staff's position on transmission tracking mechanisms. In Case Nos. ER-2012-0174 and ER-2012-0175, Kansas City Power & Light Company's ("KCP&L") and KCP&L Greater Missouri Operations Company's ("GMO") requests for general rate increases and transmission trackers, the Commission held in its *Report and Order* issued January 9, 2013:

> "Rare" does not describe cost increases in the utility business generally. Specifically, Applicants' evidence shows the following as to transmission. Transmission is an ordinary and typical, not an abnormal and significantly different, part of Applicants' activities. Also, Applicants showed that paying more for transmission than in the previous year is a foreseeably recurring event, not an unusual and infrequent event. Thus, "items related to the effects of" transmission cost increases are not rate and, therefore, are not extraordinary. [page 31]
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> Because Applicants have not shown that the projected transmission increases are current and will be rare, Applicants have not carried their burden of proving that the projected transmission increases are extraordinary. If the increases – once they happen – prove to be less than five percent of income, Applicants may apply for an accounting authority order under the law they cite. If the projected transmission increases prove to be more than five percent of income, they will be subject to deferral without the Commission's order. [page 32]
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> For those reasons, the Commission concludes that denying a tracker is consistent with the law and does not threaten safe and adequate service at just and reasonable rates, so the Commission will not order a transmission tracker. [page 32; Footnote omitted].

In response to this *Report and Order* of the Commission, KCP&L and GMO filed in Case No. EU-2014-0077 for an accounting authority order (AAO) for transmission expense. The Commission decided as follows in a *Report and Order* issued on July 30, 2014:

> In Missouri, rates are normally established based off of a historic test year. The courts have stated than an AAO allows the deferral of a final decision on current *extraordinary* costs until a rate case and therefore is not retroactive ratemaking. Consistent with the language in General Instruction No. 7, the Commission has evaluated the transmission costs for which Companies seek an AAO to determine if they are an unusual and infrequent occurrence. The Commission concludes they are not.
>
> Companies began incurring transmission expenses when they began providing retail electric service. Transmission costs are part of the ordinary and normal costs of providing electric service and are expected to continue in the foreseeable future. Furthermore, while the transmission costs at issue may have a significant effect on Companies, they are not "abnormal and significantly different from the ordinary and typical activities" of the Companies. The increase in transmission costs was anticipated and is indeed the norm for all electric utility members of SPP. Therefore, the transmission costs are not extraordinary. [page 10; Footnote omitted]
>
> *        *        *        *
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> . . . Based upon the competent and substantial evidence in the record, the Commission finds and concludes that KCP&L's and GMO's application for an AAO, or in the alternative a tracker, should be denied. [page 11]

In Case No. ER-2014-0370, a more recent KCP&L general rate increase case, KCP&L again requested a transmission tracker and the Commission again denied KCP&L's request in its Report and Order issued on September 2, 2015:

> The evidence presented in this case showed that KCPL's transmission costs, while having increased in recent years, are normal, ordinary and recurring operation costs. These recurring costs are not abnormal or significantly different from the ordinary and typical activities of the company, so they are not extraordinary and, therefore, not subject to deferral under the

> USoA. The Commission concludes that KCPL has not met its burden of proof to demonstrate that projected transmission cost increases are extraordinary, so its request for a transmission tracker will be denied.

On September 6, 2016, the Missouri Court of Appeals Western District filed its opinion affirming the Commission's decision in Case No. ER-2014-0370 in regards to regulatory treatment of transmission expense.[4]

Q. Please summarize Staff's position on transmission expense and revenues in regards to Ameren Missouri.

A. Ameren Missouri's argument supporting its tracker proposal that its transmission expense is large, volatile and unforeseeable is incorrect. The Commission has determined in previous rate cases that increases in transmission costs can be anticipated and are normal for day-to-day business for an electric utility. For the purposes of transmission expense and revenues in this case, nothing has changed since the previous Commission decisions, as a result, Staff contends that a tracking mechanism for Ameren Missouri's transmission expense and revenue is not necessary. Staff contends that the base rate recovery method currently employed by Ameren Missouri should continue for transmission expense and revenue. Staff will restate its annualized transmission expense and revenue based on actual 2017 data once true-up data is received. That annualized level will be proposed for ongoing base rates by Staff in surrebuttal testimony.

**<u>AMEREN SERVICES ALLOCATION EXPENSE</u>**

Q. Please give a brief description of Ameren's cost allocation process.

[4] 2016 WL 4626933 (September 6, 2016); Motions for Rehearing and/or Transfer to Missouri Supreme Court Denied/Overruled, November 1, 2016; Applications to Transfer in the Missouri Supreme Court filed by KCPL and MECG, November 15, 2016.

A. Ameren Services provides general services for Ameren affiliate companies. Ameren Services' costs are coded by a service request number and are included in one of four buckets: direct, direct allocated, indirect functional and indirect corporate. Those costs that can be identified as created by only one certain affiliate corporation are directly charged to that corporation. If costs belong to a few affiliates, those costs are directly allocated to each affiliate based on their portion of the costs. If costs are allocated by function, that means that any indirect costs allocated are the same proportion as the total costs allocated for a certain function, such as the controllers function. If costs are allocated by indirect corporate, that means that the same proportion of indirect corporate cost dollars are allocated to a corporation as the total amount of direct corporate costs.

Q. Has Ameren Missouri proposed an adjustment to Ameren Services allocations in the current rate case?

A. No.

Q. Does Staff believe an adjustment to the test year is necessary for Ameren Services allocations?

A. Yes. A docket regarding Ameren Missouri's cost allocation manual has been opened to determine the correct basis for development of all Ameren Services allocation factors to be utilized on a going forward basis; however, that action does not resolve the issue of what Ameren Services allocation cost level should be used to set rates in the current rate case. Staff believes Ameren Missouri must make an adjustment to remove any costs related to allocation factors that relate to Noranda. Ameren Missouri clearly believes the decline in Noranda load is an ongoing event by proposing to recover "lost fixed costs" in this rate case; however they have relayed to Staff that they are undecided as to whether to make an

Ameren Services allocation adjustment for this item at this time. It is clear that the level of allocated costs based on Noranda related allocation factors will not be at the same level going forward as during the test year.

Q. Does Staff have a correction to the Noranda load adjustment that was proposed in Staff's direct testimony?

A. Yes. It is clear from Ameren Missouri's response to OPC Data Request No. 1503 that the Company's calculation that Staff had initially adopted to restate allocations based on the lower load assumptions was in fact only an adjustment based on nine months of 2016 (January – September) costs. It is necessary to restate the test year costs due to the fact that Noranda did not cease operations until March 2016. That means that all of the test year must be restated with the recalculated allocation factors that are affected by changes in load. Staff accepts OPC witness Steven C. Carver's adjustment to allocated costs for the reduction in Noranda load with a slight modification to the electric allocation percentage. This corrected adjustment should result in a reduction to allocated costs of **________ **.

Q. Does Staff believe an additional adjustment is needed to reset ongoing Ameren Services allocation costs other than for the change in Noranda load?

A. Yes. Staff has reviewed OPC witness Carver's direct adjustment calculation for known and measureable changes to Ameren Services allocated costs and believes that, with slight modifications the proposed adjustment can properly restate Ameren Services test year allocated costs from the 2015 allocation factors to the 2016 allocation factors.

Q. What modifications is Staff proposing to be made to OPC witness Carver's calculation?



**NP**

A. OPC witness Carver discusses in his direct testimony on page 26, lines 10 through 19 that the adjustment that OPC is proposing did not take into account any effect on labor or employee benefits. Staff witness Jason Kunst has already proposed a payroll annualization adjustment, which includes Ameren Missouri and Ameren Services labor, to reset labor expense in this rate case. As part of Staff witness Kunst's adjustment he is restating test year labor and employee benefits to what Staff ultimately believes this level of expense should be on a going forward basis. My proposal to adjust for Ameren Services allocations will restate the test year level of allocated expense, including labor and employee benefits. However, in order for Staff to correctly adjust the incremental piece of allocated labor and benefits from test year to the ongoing level, Staff will be making a slight adjustment to witness Kunst's Ameren Services labor and benefits adjustment. In other words, Staff will be proposing the same magnitude of adjustment to witness Kunst's Ameren Services labor and benefit adjustment as it will to the test year level of allocated costs. This adjustment will reduce witness Kunst's adjustments to Ameren Services labor and benefits by $54,674.

These adjustments of course will be updated when true-up data becomes available. In addition, Staff has used the actual percentage as of September 2016 in its calculation to reflect the costs that should be allocated to Ameren Missouri's electric operations. Once the above modifications have been made to OPC witness Carver's calculation, Staff believes a reduction of ** ________ **, in addition to the adjustment for labor and benefits above, is appropriate to restate test year allocations to 2016 allocation factors. Staff intends on updating the actual percentage as of December 2016 for costs allocated to Ameren Missouri's electric operations when true-up data becomes available and will include an updated adjustment in its surrebuttal filing.

Q. Does Staff intend on proposing an Ameren Services allocated cost adjustment related to transmission operations at this time?

A. No. As previously discussed in the Cost of Service Report, Staff has concerns over the level of costs being allocated to Ameren's transmission affiliates. Even though Staff believes an adjustment would most likely be necessary to correctly restate costs that should be allocated to the transmission affiliates, it is virtually impossible to know how much of each cost ultimately should have been allocated to the transmission affiliates rather than Ameren Missouri or the other Ameren affiliates based on the 2016 allocation factors that are now in place. While Staff desires to make an adjustment to allocated costs based on what costs should have been allocated to transmission affiliates in this case, Staff demonstrated in direct testimony that Ameren Missouri will be introducing new allocation factors in 2017 that include specific transmission related factors. In addition, Staff will be working closely with the parties on the Cost Allocation Manual ("CAM") case to determine correct ongoing allocations and any future adjustments that may ultimately be determined from that case.

**FERC ROE COMPLAINT**

Q. Please briefly recount the background of this issue.

A. The Coalition of MISO Transmission Customers, Illinois and Indiana Energy Consumers, Minnesota and Wisconsin Industrial Groups and the Association of Business Advocating Tariff Equity filed two complaint cases before the FERC that possibly will affect Ameren Missouri's MISO transmission costs in the future. The first complaint case was filed regarding section 206 of the Federal Power Act ("FPA") challenging the MISO transmission owners' ("TOs'") base return on equity ("ROE") reflected in MISO's Open Access Transmission, Energy and Operating Reserve Markets Tariff. The second complaint case has yet to be litigated before the FERC and a decision from that case more than likely will not be issued until sometime in 2017 after the effective date of rates in this rate case. The September 28, 2016 FERC Order On Initial Decision, Opinion No. 551 in Docket No. EL14-12-002 (the first complaint case) affirmed the Presiding Judge's Initial Decision made on December 22, 2015, including ordering that: (A) MISO TOs' base ROE be set at 10.32 percent with a total or maximum ROE including incentives not to exceed 11.35 percent, effective on the date of the September 28, 2016 order; (B) MISO and MISO TOs were directed to submit compliance filings with revised rates to be effective the date of the September 28, 2016 order reflecting a 10.32 percent base ROE and a total or maximum ROE not exceeding 11.35 percent (inclusive of transmission incentive ROE adders), within thirty (30) days of the date of the September 28, 2016 order; (C) MISO and MISO TOs were directed to provide refunds, with interest calculated pursuant to 18 C.F.R. § 35.19a (2016), within thirty (30) days of the date of the September 28, 2016 order, for the 15-month refund period from November 13, 2013 through February 11, 2015; and (D) MISO and MISO TOs were directed to file a refund report detailing the principal amounts plus interest paid to each of their customers within forty-five (45) days of the date of the September 28, 2016 order. On September 19, 2016, the MISO TOs sought U.S. Court of Appeals for the District of Columbia Circuit review of two FERC orders in Docket No. EL14-12-000. The Petition for review is still pending. On October 28, 2016, various Requests for Hearing were filed in Docket No. EL12-14-000 respecting the FERC's September 28, 2016, Order On Initial Decision, Opinion No. 551. On November 28, 2016, the FERC issued an Order Granting Rehearings for Further Consideration in Docket No. EL12-14-000.

Q. What was Staff's initial ratemaking position in its Cost of Service Report filed on December 9, 2016, on how to deal with the FERC ROE complaints?

A. Staff reviewed the calculation that Ameren Missouri was ordered to calculate by the FERC for the first complaint case and included in its cost of service as a regulatory liability to be returned to customers over three years beginning with the effective date of rates in this case. However, because (1) Ameren Missouri must submit for approval its ordered refund reports and (2) the appeal that has been sought by the TOs is still pending, the actual amounts for this refund will not be known until after the true-up date in this case. So, Staff had initially proposed to defer the difference between the actual refund amount and the estimate of the regulatory liability built into this case, until Ameren Missouri's next rate case. In addition, since the second complaint case at the FERC has not been litigated and will likely not be until after the effective date of rates set in this immediate rate case, Staff proposed to defer any refund that is eventually determined from that FERC case until Ameren Missouri's next general rate case where it would also be treated by Staff as a regulatory liability.

Q. Does Staff have clarification regarding its position on the first FERC ROE refund that was set forth in direct testimony in this case?

A. Yes. Upon further reflection, it is clear that the actual amount of this first FERC refund will not be known and measureable until after the true-up date in this current rate proceeding. Therefore, Staff's position is that it is premature to include this amount in its current rate case and that it is appropriate to defer the amount of the first refund, as a regulatory liability, until Ameren Missouri's next general rate case where that actual known balance will then be returned to customers as best determined by the parties' proposals in that case. Staff continues to maintain its position as indicated in its December 9, 2016 filing, in regards to the second FERC complaint case that the refund determined in that case, regardless as to if the initial transmission costs were charged through the FAC or through base rates, should be deferred as a regulatory liability until Ameren Missouri's next rate case where the amount can be refunded to customers as best determined by the parties' proposals in that case.

Q. Does this conclude your rebuttal testimony?

A. Yes, it does.

**BEFORE THE PUBLIC SERVICE COMMISSION**

**OF THE STATE OF MISSOURI**

| | | |
|---|---|---|
| In the Matter of Union Electric Company<br>d/b/a Ameren Missouri's Tariffs to Increase<br>Its Revenues for Electric Service | )<br>)<br>)<br>) | Case No. ER-2016-0179 |

**AFFIDAVIT OF LISA M. FERGUSON**

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| STATE OF MISSOURI<br><br>CITY OF ST. LOUIS | )<br>)<br>) | ss. |

**COMES NOW LISA M. FERGUSON** and on her oath declares that she is of sound mind and lawful age; that she contributed to the foregoing Rebuttal Testimony; and that the same is true and correct according to her best knowledge and belief.

Further the Affiant sayeth not.

Lisa M. Ferguson

**LISA M. FERGUSON**

**JURAT**

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the City of St. Louis, State of Missouri, at my office in St. Louis, on this 19th day of January, 2017.

Vivian Kincaid

Notary Public

VIVIAN KINCAID
Notary Public - Notary Seal
State of Missouri
Commissioned for St. Louis County
My Commission Expires: June 06, 2018
Commission Number: 14893349

# SCHEDULE LMF-r1

# HAVE BEEN DEEMED

# HIGHLY CONFIDENTIAL

# IN THEIR ENTIRETY