Exhibit No.:	________________
Issue(s):	Return on Equity/ Accumulated Deferred Income Tax Adjustment/ Regulatory Liability Account/ Hannibal Shop
Witness/Type of Exhibit:	Riley/Rebuttal
Sponsoring Party:	Public Counsel
Case No.:	GR-2018-0013

REBUTTAL TESTIMONY

OF

JOHN S. RILEY

Submitted on Behalf of the Office of the Public Counsel

LIBERTY UTILITIES (MIDSTATES NATURAL GAS) CORP. D/B/A LIBERTY UTILITIES'

FILE NO. GR-2018-0013

April 13, 2018

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Liberty Utilities (Midstates Natural Gas) Corp. d/b/a Liberty Utilities' Tariff Revisions Designed to Implement a General Rate Increase for Natural Gas Service in the Missouri Service Areas of the Company	))))))	File No. GR-2018-0013

<u>AFFIDAVIT OF JOHN S. RILEY</u>

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

John S. Riley, of lawful age and being first duly sworn, deposes and states:

1. My name is John S. Riley. I am a Public Utility Accountant III for the Office of the Public Counsel.

2. Attached hereto and made a part hereof for all purposes is my rebuttal testimony.

3. I hereby swear and affirm that my statements contained in the attached testimony are true and correct to the best of my knowledge and belief.

John S. Riley
John S. Riley, C.P.A.
Public Utility Accountant III

Subscribed and sworn to me this 13th day of April 2018.

NOTARY PUBLIC NOTARY SEAL STATE OF MISSOURI

JERENE A. BUCKMAN
My Commission Expires
August 23, 2021
Cole County
Commission #13754037

Jerene A. Buckman
Jerene A. Buckman
Notary Public

My Commission expires August 23, 2021.

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REBUTTAL TESTIMONY
OF
JOHN S. RILEY
LIBERTY UTILITIES (MIDSTATES NATURAL GAS) CORP.

CASE NO. GR-2018-0013

INTRODUCTION

Q. What is your name and what is your business address?

A. John S. Riley, PO Box 2230, Jefferson City, Missouri 65102.

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

A. I am employed by the Missouri Office of the Public Counsel ("OPC") as a Public Utility Accountant III.

Q. Are you the same John S. Riley that filed direct testimony in this case?

A. Yes.

Q. What is the purpose of your rebuttal testimony?

A. To respond to Liberty Utilities (Midstates Natural Gas) Corp. ("Liberty") witness Keith McGee's assertion that Liberty should be afforded a higher Return on Equity (ROE) due to what he contends are elevated risks that the Commission should consider when determining Liberty's equity costs. I will also argue that Staff witness David Murray recommendation that Liberty be awarded a premium over the Spire 9.8% ROE is not necessary.

Secondly, OPC recommends that if the estimated remaining life of the protected portion of the excess accumulated deferred income taxes (ADIT) cannot be determined by the end of the true up period then that portion of the ADIT should be refunded back to the customers over a 20 year period and the unprotected portion of ADIT be refunded over 10 years.

The OPC also recommends that the Commission order Liberty to establish a regulatory liability account for the difference between the tax rate expense included in the current rates and the new lower tax expense that will be included in the new rates that are effective August 26, 2018. This accumulated liability would then be amortized over the expected four year period that the Company's new rates would be in effect.

RETURN ON EQUITY

Q. Why should the ROE be lower than what Staff and Liberty have suggested?

A. Liberty witness Keith McGee and Staff witness David Murray have presented very detailed and competent models that lay the *groundwork* to provide the Commission with the information it needs to make an informed decision concerning capital structure, cost of debt and return on equity ("ROE"). Liberty and Staff both provide a range for ROE yet claim that the Commission should decide on the *high* end of its range due to subjective reasons that the Commission should question. These subjective reasons do not have merit and therefore Commission should decide that 9.8% ROE is fair and reasonable for Liberty until its next general rate case.

Q. What ROE range has Liberty witness Keith McGee presented to the Commission?

A. Below is the Summary table the Mr. McGee included on page 5 of his direct testimony:

Table 1: Summary of Analytical Results

DCF Analyses	*Low*	*Proxy Group* *Mean*	*High*
Constant Growth, 30-day Stock Prices	7.22%	8.96%	11.13%
Constant Growth, 90-day Stock Prices	7.26%	9.01%	11.17%
Constant Growth, 180-day Stock Prices	7.36%	9.10%	11.27%
Quarterly Growth, 30-day Stock Prices	7.37%	9.08%	11.37%
Quarterly Growth, 90-day Stock Prices	7.42%	9.13%	11.41%
Quarterly Growth, 180-day Stock Prices	7.52%	9.23%	11.52%
CAPM		*Bloomberg MRP*	*Value Line MRP*
Value Line Beta, Current Risk-Free Rate (2.85%)		10.53%	11.08%
Value Line Beta, Projected Risk-Free Rate (3.35%)		10.67%	11.22%
Bloomberg Beta, Current Risk-Free Rate (2.85%)		9.62%	10.11%
Bloomberg Beta, Projected Risk-Free Rate (3.35%)		9.80%	10.29%
Bond Yield Plus Risk Premium	*Low*	*Mean*	*High*
Current and Projected Baa Utility Bond Yields	9.52%	9.83%	10.41%
Expected Earnings Analysis	*Low*	*Mean*	*High*
Value Line Projected Return on Book Equity	10.74%	10.93%	11.11%

Mr. McGee presents a DCF with a low ROE of 7.22% to a high of 11.52% with a mean of about 9.09% He finally states that the range of consideration is 9.90% to 10.35% with a suggested ROE of 10.25%.

Q. 9.90% to 10.35% is substantially more narrow a range than the DCF range of 7.33% – 11.52%. What explanation did Mr. McGee have for his adjustments?

A. As Mr. McGee states on page 31 of his direct testimony "Because the analytical methods discussed above provide a range of estimates, there are several <u>additional factors</u> that should be taken into consideration when establishing reasonable range for the Company's cost of equity." (Emphasis added)

Q. What were some of the additional factors that Mr. McGee wants the Commission to consider?

A. The Liberty witness would like the Commission to attach a premium on the ROE of 0.98% for Liberty small size compared to the proxy group. McGee points out that Liberty is much smaller than anyone in the proxy group and refers to a handbook published by Duff & Phelps that calculates the "size premium" for Liberty as 0.98%. So Mr. McGee is suggesting that the Commission consider another 1% to be added to his ROE range due to Liberty's smaller size.

Q. Has the Commission had any recent experience in witnesses suggesting a risk premium be added to a company's ROE?

A. Yes. In the recent Spire Missouri general rate case, GR-2017-0215, Spire's Rate of Return witness, Pauline Ahern, testified that Spire Missouri should earn a ROE of 10.35% due to "flotation risk adjustment" and a "business risk adjustment".[1]

Q. What was the Commission response to Ms. Ahern's request?

A. As I quote from page 33 of the Spire Report & Order:

> 12. In contrast to Mr. Murray and Gorman, the Commission finds Ms. Ahern's return on equity recommendation is too high. Ms. Ahern's methods are inconsistent in that she **ignores the corporate parent structure (Spire Inc.) of Spire Missouri in determining a business risk adjustment for size,** yet she compares LAC and MGE as stand-alone companies to other parent company entities in her proxy group. While Spire Missouri operates through its LAC and MGE subsidiaries, Atmos Energy, New Jersey Resources, and Northwest Natural Gas, all publicly traded parent companies in the proxy group, also provide gas service via their subsidiaries. **When compared at the parent-company level, Spire Inc. falls in the middle of the other parent companies with regard to size**.

[1] Report & Order, GR-2017-0215, Page 29, last two lines

> 13. Considering the range of the expert ROE recommendations from 9.2 percent to 10.35 percent and each of their flaws, the most recent national average of 9.8 percent, and appropriate adjustments for risk, the growing economy, and the anticipated increase in Federal Reserve interest rates, the Commission finds the most reasonable authorized return on equity is 9.8 percent. (Footnotes omitted, Emphasis added)

Q. How does this section relate to Liberty in this case?

A. Liberty witness McGee would like to fashion Liberty as a small utility that must have a higher equity return due to its small size; but Liberty is not a stand-alone company. Staff witness Murray provides a concise description of Liberty corporate structure in Staff's cost of service report, appendix 2:

> Although Liberty Midstates is the petitioner in this rate case, Liberty Midstates does not operate as a stand-alone company. Liberty Midstates is managed by Liberty Utilities Services Corporation employees. Liberty Midstates does not issue debt directly to third-parties. Most of the independent third-party corporate debt financing occurs at the LUCo level. LUCo issues corporate debt through a financing subsidiary, Liberty Utilities Finance GP1 ("LUF"), but LUCo guarantees this debt. APUC is the ultimate holding company for LUCo. APUC also owns Liberty Power Company.[2]

Liberty should not be considered a small utility in need of a size premium. No risk premium was considered in Liberty's last general rate case GR-2014-0152. Liberty is managed and supported by an organization that certainly relates very well to the proxy group that Mr. McGee and Mr. Murray have used for this case.

[2] Staff Cost of Service Report, Appendix 2, page 15

Q. What other risk does Mr. McGee present that the Commission should ignore?

A. Mr. McGee points to the "Regulatory Risk" that would affect a utility's cost of capital. The witness goes on to explain that the Regulatory Research Associates ("RRA") has developed a rating system for regulatory jurisdictions. I quote from page 36 of his direct testimony:

> Missouri was downgraded to "Below Average 1" from "Average 2" in May 2017. Regarding Missouri's regulatory environment, RRA has noted "[t]he state's traditional approach to ratemaking is less investor friendly than the more constructive frameworks now being utilized in many other jurisdictions" and highlighted that the 2017 legislative session did not adopt a proposed bill that would have altered the state's ratemaking structure to address concerns regarding regulatory lag."

Mr. McGee is attempting to shame the Commission into accepting his rate of return argument. The quote he uses is taken out of context and is incredibly misleading. The Commission should take note of this mischaracterization when it weighs the evidence concerning ROE.

Q. How has Mr. McGee misrepresented the RRA's review?

A. The RRA's primary focus in rating regulatory jurisdictions is for **electric** utilities. Notably, electric utilities are not eligible for purchase gas adjustment ("PGA") surcharges or infrastructure replacement surcharges (ISRS). Below, is the most recent RRA evaluation. The entire report is attached as JSR-R-1

RRA Evaluation

> *Missouri regulation is relatively restrictive from an investor perspective. ROEs adopted by the PSC over the past year or so were slightly below prevailing industry averages at the time established. All of the large electric utilities have fuel adjustment clauses, or FACs, in place that allocate a portion of fuel and purchased power-related cost variations to*

> *shareholders. However, in several recent electric rate proceedings, the PSC prohibited the companies from recovering a portion of their transmission costs through their FACs.* ***On the gas side of business, the state's utilities are permitted to adjust rates to reflect changes in gas commodity costs on a timely basis, and the commission has approved the use of surcharges for recovery of infrastructure improvement costs between base rate cases.*** *The 2017 legislative session concluded without any action being taken on a bill that would have altered the state's ratemaking framework to address concerns regarding "regulatory lag," despite the effort put forth by the utilities, and the recognition by the commission and certain members of the legislature that changes could be warranted. The PSC is currently considering Great Plains Energy's proposed "merger of equals" with Westar Energy, after the commission's review of a previous version of the deal was abruptly terminated following the Kansas Corporation Commission's rejection of the deal. Although the PSC has not imposed onerous conditions on other mergers that have been presented to it in recent years, it remains to be seen whether the contentious nature of the earlier version of the Great Plains/Westar transaction will have implications in the commission's pending review. The state's traditional approach to ratemaking is less investor-friendly than the more constructive frameworks now being utilized in many other jurisdictions. In May 2017, RRA performed a comprehensive audit of its regulatory rankings. The ranking accorded Missouri was lower as a result of this process. RRA now accords Missouri a Below Average/1 ranking, versus the previous Average/2 ranking. (Section updated 12/19/17) (Emphasis added)*

The evaluation devotes four lines to the subject of Local Distribution Companies ("LDC") regulation and I find them to be very positive towards how the Commission regulates gas companies. Between the PGA/ACA and ISRS filings, there is so little "regulatory lag" that LDC's don't even come in for a rate case unless statute and rules demand them to.[3]

Q. Your contention then is that Liberty and LDC's in general have little regulatory risk?

A. The Commission is fully aware of why a regulated utility files for a general rate increase but I would like to point out why regulated utilities do not file a rate case. LDCs aren't filing cases because they are more than likely meeting or exceeding its authorized rate of return. Ameren Gas last general rate case was 2010 and Empire Gas was 2009.[4] Seven years of silence. Where is the regulatory lag? Spire has admitted that OPC's complaint case and the ISRS statute forced them to come in for a rate case. Judging from some LDC filing frequencies, regulatory lag seems to be reversed. Liberty's last rate case was in 2014 so the ISRS provisions would require them to file a general rate case this year. With the regulation mechanisms available in the Missouri's jurisdiction, LDCs enjoy frequent adjustments to nearly 60% of its cost outside of a general rate case. It appears that LDC regulatory risk is nearly negative.

Q. How should the Commission view regulatory risk when it considers a fair and reasonable rate of return for Liberty?

A. Regulatory risk for Liberty is minimal. LDC's enjoy a very favorable environment in Missouri. This lack of risk should be seen as a reduction when considering ROE. It is one of the reasons that 9.8% is a sufficient return on equity.

[3] Glenn Buck Rebuttal, GR-2017-0215, page 16, lines 14 – 16, and Spire post-hearing brief
[4] Ameren Gr-2010-0363, Empire GR-2009-0434

Q. Staff witness Mr. David Murray has testified that a proper range of return on equity for Liberty s is 9.5% to 10% with a suggested ROE of 10%. What is OPC's argument against Staff's recommendation?

A. To be clear, OPC does not take issue with Mr. Murray's methodology or his presentation of the financial analysis. Mr. Murray makes a very thorough case for a wider ROE range than what he ultimately presents but narrows it solely based on the Commission's decision in the most recent Spire rate case. An ROE of 9.8% should not be the starting point on which to make an adjustment up, but that for a range of 9.5% to 10%, 9.8% should be the ROE.

Q. What were some of the points that David Murray made that the Commission should consider in this case?

A. Mr. Murray presented his DCF, CAPM, and a "rule of thumb" analysis. From this analysis he came up with a cost of equity range of 8.83% to 9.16%[5] Murray recognizes that the Commission will not apply this low of a ROE in this current business climate so he also refers to recent RRA publications of allowed ROE in recent cases.

> Because the average ROEs for gas utilities in 2017 contained a few outliers (most notably an allowed ROE of 11.88% on the high side and 8.70% on the low side), it is important to observe the median allowed ROE for 2017 was 9.6%.[6]

In addition to the RRA, Mr. Murray took into consideration that the Commission pointed to 9.8% as the recent national average in its Spire Report and Order in Case Nos. GR-2017-0215 and GR-2017-0216.

[5] Cost of Service Append ix 2, page 46 line 20
[6] Page 47

Q. Mr. Murray mentions a 2017 average of 9.6% and the Commission decides a 9.8% return for Spire in late 2017. Why then should the Commission allow a 9.8% return for Liberty?

A. The Commission pointed to the national *average* as 9.8%. The ratemaking climate for LDCs in Missouri is not average. Judging by how often LDCs come in for general rate increases, LDC's in Missouri have a very generous ratemaking structure. A reduction from the average should be considered when taking into account the risk premium for Missouri LDC's. Missouri has a very LDC friendly rate environment. The existence of interim rate surcharges support a lower ROE determination. The fact that the economic conditions mentioned by the Commission when it decided the ROE for Spire have not changed, the ROE for Liberty should not be set any higher than what it decided for Spire.

Q. What were the conditions mentioned in the Report and Order in Case Nos. GR-2017-0215 and GR-2017-0216?

A. The Commission mentioned some key points on page 33 of its Report and Order:

> 13. Considering the range of the expert ROE recommendations from 9.2 percent to 10.35 percent and each of their flaws, the most recent national average of 9.8 percent, and appropriate adjustments for risk, the growing economy, and the anticipated increase in Federal Reserve interest rates, the Commission finds the most reasonable authorized return on equity is 9.8 percent.

The Commission settled on this 9.8 percent because it included an adjustments for risk, the growing economy and the anticipation of an interest rate increase. All three point are also present in this case. Risk for Liberty is minimal, the economy is growing and the Federal Reserve did in fact raise the rates as the Commission anticipated.

Q. What adjustment should be made to David Murray's analysis to make 9.8% the compelling argument?

A. Mr. Murray's analytical flaw is that he used the recent Spire ROE decision as his *backdrop* and made an adjustment up from 9.8%. His analysis in this case was good. His range of 9.5% to 10% is credible and he should have made an argument that 9.8% was a fair and reasonable ROE for Liberty just as it was for Spire.

ACCUMULATED DEFERRED INCOME TAX ADJSUSTMENT

Q. Has the Tax Cuts and Jobs Act ("TCJA") signed in to law in December of 2017 caused an overstatement in Liberty's accumulated deferred income tax balance?

A. Yes. Prior to January of 2018, accumulated deferred income tax ("ADIT") was calculated at 35 %. The TCJA has reduced corporate rates to 21%. The reduced new rate now causes a permanent mismatch between the prior accumulated deferred tax and its eventual flow back to the consumer.

Q. How does OPC expect the permanent difference to be refunded to the ratepayer?

A. For tax purposes, the protected portion of the ADIT should be returned using the average rate assumption method ("ARAM") and the unprotected portion can be refunded at the discretion of the Commission. If Liberty cannot calculate the amount using the ARAM, then it should be allowed to reduce its excess deferred tax over an average life or composite rate of all its utility property. Absent a determination calculated by the parties, OPC expects the protected ADIT to be refunded over 20 years and the unprotected portion over 10 years as the Commission determined in the recent Spire Inc. rate case.

Q. Does OPC have a dollar adjustment to present at this time?

A. It is my understanding that the Company is still quantifying the protected and unprotected ADIT amounts. I expect Liberty will be able to update its calculations in the near future.

REGULATORY LIABILITY ACCOUNT

Q. The federal income tax rate was reduced from 35% to 21% in December of 2017. What is OPC proposing in regards to the difference in income tax expense since the beginning of 2018?

A. OPC request that the Commission order Liberty to identify and record, as a regulatory liability, the difference between the 35% tax expense and the new 21% tax expense until the operational law date. That amount would then be amortized the next four years.

Q. What would justify this request?

A. The income tax rate change is extraordinary and beyond the control of Liberty.

Q. What makes this extraordinary?

A. The change in tax rates represents a 40% drop in income tax rates. That is substantial.

Q. Why does OPC request that the difference be booked to the liability account starting from the beginning of 2018?

A. Two reasons. 1) The tax rate change became effective beginning January 1, 2018, and 2) The true-up period extends through March 2018, so the rate change will be included in the true-up period. This extraordinary event will cause Liberty to over earn for the first eight months of this year. This overearning should be recorded and returned to the ratepayer.

Q. Is it possible that Liberty could have made the same argument if the rate had jumped from 21% to 35%?

A. Given the fact that Liberty is requesting trackers on carry costs and property tax in this case; it is likely Liberty would have made that request if the rate change was up instead of down.

Q. But OPC is against the trackers Liberty has requested. What is the difference between OPC's request and Liberty's tracker request?

A. The tax rate change is extraordinary whereas the Company is asking for special treatment of costs that are either capitalized or are standard expenses of the cost of service.

Q. What is your calculation of the eight months of overearning?

A. I have not yet reviewed the final Staff cost of revenue calculations form the GR-2014-0152 case but using the preliminary rate base and final Commission ordered ROR, my current estimate of the difference between the allowed tax expense in the prior case and the tax expense calculated using the 21% rate is $818,117. Projecting this figure over the first 8 months of 2018 would produce a refundable amount of $545,411. I expect to adjust this amount when I have access to Staff's final run based off the Report & Order from GR-2014-0152.

HANNIBAL SHOP

Q. What is OPC's position with regards to the Hannibal shop being included in rate base?

A. OPC is in agreement with Staff that the lease agreement does not provide Liberty with assurances that the building will remain in its possession when the lease is expired. Absent, an arms-length renegotiation of the lease providing for continued control and ownership of the building by Liberty, then the asset should not be considered rate base.

Q. Does this conclude your rebuttal testimony?

A. Yes.

RRA Regulatory Focus

Missouri Regulatory Review

RRA Evaluation

Missouri regulation is relatively restrictive from an investor perspective. ROEs adopted by the PSC over the past year or so were slightly below prevailing industry averages at the time established. All of the large electric utilities have fuel adjustment clauses, or FACs, in place that allocate a portion of fuel and purchased power-related cost variations to shareholders. However, in several recent electric rate proceedings, the PSC prohibited the companies from recovering a portion of their transmission costs through their FACs. On the gas side of the business, the state's utilities are permitted to adjust rates to reflect changes in gas commodity costs on a timely basis, and the commission has approved the use of surcharges for recovery of infrastructure improvement costs between base rate cases. The 2017 legislative session concluded without any action being taken on a bill that would have altered the state's ratemaking framework to address concerns regarding "regulatory lag," despite the effort put forth by the utilities, and the recognition by the commission and certain members of the legislature that changes could be warranted. The PSC is currently considering Great Plains Energy's proposed "merger of equals" with Westar Energy, after the commission's review of a previous version of the deal was abruptly terminated following the Kansas Corporation Commission's rejection of the deal. Although the PSC has not imposed onerous conditions on other mergers that have been presented to it in recent years, it remains to be seen whether the contentious nature of the earlier version of the Great Plains/Westar transaction will have implications in the commission's pending review. The state's traditional approach to ratemaking is less investor-friendly than the more constructive frameworks now being utilized in many other jurisdictions. In May 2017, RRA performed a comprehensive audit of its regulatory rankings. The ranking accorded Missouri was lowered as a result of this process. RRA now accords Missouri a Below Average/1 ranking, versus the previous Average/2 ranking. (Section updated 12/19/17)

Current Missouri commissioners

Commissioners	Party	Began serv.	Term ends	Background
Daniel Y. Hall (Chairman)	D	9/13	9/19	Legislative Director, Office of the Governor; Senior Counsel to Attorney General; attorney in private practice
Stephen M. Stoll	D	6/12	12/17	Director of Administration, Jefferson County, Missouri; City Administrator, Festus, Missouri; state legislator
William P. Kenney	R	1/13	1/19	Chief of Staff, Lt. Gov. Peter Kinder; state legislator; quarterback, Kansas City Chiefs
Scott T. Rupp	R	4/14	4/20	State legislator; vice president of business development, UMB Bank
Maida J. Coleman	D	8/15	8/21	Director, Missouri Office of Community Engagement; state legislator; Executive Director, Missouri Workforce Investment Board

Source: Regulatory Research Associates, an offering of S&P Global Market Intelligence

Missouri Public Service Commission (PSC)

200 Madison Street
P.O. Box 360
Jefferson City, MO 65102-0360
Telephone: (573) 751-3234

No. of commissioners: 5 full-time

Method selection: Gubernatorial appointment, Senate confirmation

Term of office: 6 years — staggered terms

Chairman: Designated by, and serves at the pleasure of, the governor

Governor: Eric Greitens, a Republican, who is serving a term that extends to January 2021

Please note that the sections below are updated through 12/19/17, but are maintained on a real-time basis in the Commission Profiles section of our website.

Russell Ernst, CFA
Senior Research Analyst

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Miscellaneous

Commissioner Selection — Minority party representation is practiced, but not required.

Services Regulated — In addition to regulating electric, gas, steam, water, and sewer utilities, the PSC has authority over rural electric cooperatives — only with regard to safety — and manufactured housing — with regard to building code compliance — and has limited authority over retail telecommunications.

Staff Contact: Kevin Kelly, Public Information Administrator (573) 751 9300

(Section updated 12/19/17)

Board budget

Fiscal 2018, $13.4 million. An incremental $1 million is allocated to the Office of Public Counsel. (Section updated 12/19/17)

Commissioner salaries

All commissioners, $108,000 (Section updated 12/19/17)

Commission staff

The PSC has approximately 205 employees. (Section updated 12/19/17)

Consumer interest

Represented by the Office of the Public Counsel, a division of the Department of Economic Development, or DED. The public counsel is appointed by the director of the DED for an unspecified term. The acting public counsel is Hampton Williams. (Section updated 12/19/17)

Rate case timing/interim procedures

Utilities seeking to increase rates must file tariffs 30 days prior to the proposed effective date. The proposed tariffs may then be suspended by the PSC for 10 months. If the commission has not issued a final decision within 11 months of the initial filing, the proposed rates would become effective as filed and would not be subject to refund. The PSC may authorize an interim increase, subject to refund, if a company can demonstrate an emergency, or a near emergency situation. Interim increases have rarely been sought or authorized. (Section updated 12/19/17)

Rate base and test period

The PSC generally relies on a year-end original-cost rate base, but, by law, must consider fair value. Rate requests are typically filed based on historical or partly forecasted test period data, which are updated during the course of the proceeding to reflect actual results. The adopted test periods are historical at the time of PSC decisions; however, limited "known-and-measurable" changes beyond the end of the test period may be recognized. By law, the PSC is prohibited from including electric construction-work-in-progress in rate base. (Section updated 12/19/17)

Return on equity

The most recent electric rate decision that specified an ROE was issued on May 3, 2017, when the PSC authorized Great Plains Energy subsidiary Kansas City Power & Light, or KCP&L, a 9.5% ROE. Ameren subsidiary Union Electric, or UE, d/b/a Ameren Missouri, is authorized a 9.53% ROE, as established in a 2015 rate case decision. In a March 8, 2017, rate case decision for UE, the PSC adopted a settlement that was largely silent with respect to traditional rate case parameters; however, the parties indicated, "to the Commission's satisfaction," that the implied ROE incorporated in the settlement is in a range of 9.2% to 9.7%. The most recent ROE determination for Great Plains Energy subsidiary KCP&L Greater Missouri Operations, or GMO, occurred in 2013, when the PSC established a 9.7% ROE for the company. A case for GMO that was decided in September 2016, was resolved by a settlement that indicated that the stipulated rate change reflected an ROE in a range of 9.5% to 9.75%. The most recent electric decision for Empire District Electric that specified an ROE was issued in 2008, when the PSC established a 10.8% ROE. A case for Empire that was decided in August 2016, was resolved by a settlement that indicated that the stipulated rate change reflected an ROE in a range of 9.5% to 9.9%.

The most recent gas rate decision that specified an ROE was issued in 2014, when the PSC authorized Liberty Utilities (Midstates Natural Gas), d/b/a Liberty Utilities, a 10% ROE. Liberty Utilities was formerly known as Atmos Energy. In 2014, the PSC authorized Summit Natural Gas of Missouri a 10.8% ROE.

For the other gas utilities, rate decisions in recent years have followed settlements that were silent regarding authorized ROEs for their overall operations. However, in certain circumstances, those utilities have riders in place that reflect PSC approved equity returns (see the Adjustment Clauses section). The most recent gas rate decision that specified an ROE for Spire Inc. subsidiary Missouri Gas Energy, or MGE, was issued in 2010, when the PSC authorized a 10% ROE; however, MGE uses a 9.75% pre-tax weighted average cost of capital to calculate rate adjustments under its infrastructure system replacement surcharge, or ISRS, rider. A 2013 PSC-approved rate case settlement specifies that Spire Inc. subsidiary Spire Missouri, formerly known as Laclede Gas, is to use a 9.7% ROE to calculate prospective rate adjustments under the company's ISRS rider. UE is permitted to utilize a 10% ROE in the context of its ISRS rider. (Section updated 12/19/17)

Accounting

Union Electric, or UE, and Kansas City Power & Light, or KCP&L, are permitted to collect from ratepayers amounts to fund the eventual decommissioning of the Callaway and Wolf Creek nuclear facilities, respectively; these funds are placed in qualified external decommissioning trusts. UE owns 100% of Callaway and KCP&L owns 47% of Wolf Creek.

UE, KCP&L, KCP&L Greater Missouri Operations, or GMO, Empire District Electric, Spire Missouri, Missouri Gas Energy, or MGE, and Liberty Utilities (Midstates Natural Gas) are permitted to track, as regulatory assets/liabilities, incremental variations in pension-related costs and other post-employment benefits. UE, KCP&L, GMO, Empire, MGE and Liberty Utilities are permitted to record, as regulatory assets, costs related to energy efficiency programs that were not previously approved by the PSC under the Missouri Energy Efficiency Act. Empire is permitted to track non-labor O&M costs associated with the Riverton 12 plant. (Section updated 12/19/17)

Alternative regulation

In recent years, the PSC has been considering potential changes that could be made to the state's ratemaking framework for electric utilities. In a report issued in December 2016, the PSC noted that if the General Assembly ultimately seeks to encourage utility grid modernization investments, the commission recommends that certain key principles be considered: any new cost recovery mechanism codified by state law "must not impede the Commission's authority or ability to meet its statutory obligations to set just and reasonable rates while balancing the interests of utilities and their customers; the use of a formulaic ratemaking process or "guaranteed revenue requirement" could limit or eliminate the utilities' incentive to spend ratepayer funds prudently; any modification to the current regulatory structure should be "narrowly tailored," as doing otherwise could "easily result in unintended consequences"; the utilities' use of any new mechanisms should be contingent upon PSC review and approval.

Empire District Electric, Kansas City Power & Light, or KCP&L, KCP&L Greater Missouri Operations, and Union Electric have fuel adjustment clauses in place that allocate, on a 95%/5% basis to ratepayers and shareholders, incremental fuel-cost variations (see the Adjustment Clauses section).

Missouri Gas Energy has in place a framework that provides for sharing of a portion of off-system sales, or OSS, margins and capacity release, or CR, revenues, specifically: for the first $1.2 million of OSS margins and CR revenues, 15% is to be allocated to the company and 85% to customers; for the next $1.2 million, 20% is to be allocated to the company and 80% to customers; for the next $1.2 million, 25% is to be allocated to the company and 75% to customers; and, above $3.6 million, 30% is to be allocated to the company and 70% to customers.

Spire Missouri is permitted to retain 10% of any gas-cost savings relative to an established benchmark, up to a maximum of $3 million. In addition, the company shares with ratepayers, to varying degrees, OSS margins and CR revenues. Specifically: the first $2 million of OSS margins and CR revenues were entirely allocated to ratepayers from Oct. 1, 2013 through Sept. 30, 2016; effective Oct. 1, 2016, the first $2 million of OSS margins and CR revenues are being allocated 85%/15% to ratepayers and shareholders; incremental margins between $2 million and $4 million are to be shared 80%/20%; incremental margins between $4 million and $6 million are to be shared 75%/25%; and, incremental margins above $6 million are to be shared 70%/30%. (Section updated 12/19/17)

Court action

PSC rate orders may be appealed directly to the Missouri Court of Appeals, or MCA, and ultimately to the Supreme Court of Missouri, or SCM. Rates essentially cannot be stayed by the MCA; however, the court has the authority to require the PSC to amend a company's rates based on the court's ruling. The governor initially appoints judges to the SCM and the MCA from nominations submitted by judicial selection commissions. Supreme and appeals court judges must run for retention of office at the end of a 12 year term.

No major utility related issues have been before the courts in the past couple of years. (Section updated 12/19/17)

Legislation

The Missouri General Assembly is a bicameral body that meets annually beginning in January and continuing into May. Annual veto sessions are held in September, whereby bills vetoed by the governor during the prior regular session are considered by the legislature for possible override. Currently there are 112 Republicans, 45 Democrats and six vacancies in the House of Representatives; there are 25 Republicans and 9 Democrats in the Senate.

The 2017 regular session concluded in May 2017, without action being taken on legislation that would have modified the ratemaking paradigm currently in place for the state's electric utilities. Senate Bill 190 had called for the PSC to include in the utilities' fuel adjustment clauses, or FACs, incremental transmission related costs that are not permissible in the FACs. The bill also called for the utilities to establish regulatory assets/liabilities for certain costs they incur but that are not already included in base rates, namely state and local property taxes. The bill would also have allowed the PSC to approve adjustment clauses for costs not otherwise authorized by statute, including those that facilitate modernization of the utility's infrastructure.

SB 214 called for the PSC to be allowed to impose earnings caps, rate caps, performance standards and certain other customer protections as part of an annual formulaic approach to setting utility rates.

SB 190 and SB 214 were not ultimately passed by the legislature.

The General Assembly is to reconvene in January 2018. (Section updated 12/19/17)

Corporate governance

By law, the PSC has authority over mergers and reorganizations involving the utilities it regulates, certain financing arrangements, and affiliate issues. The PSC has, in some instances, adopted ring-fencing provisions in the context of approving proposed mergers (see the Merger Activity section).

Reorganizations — In 2001, the PSC conditionally authorized Kansas City Power & Light, or KCP&L, to restructure its operations into a holding company, Great Plains Energy, with subsidiaries that included KCP&L and its regulated operations. The PSC imposed the following conditions: KCP&L's common stock cannot be pledged as collateral for Great Plains Energy's debt without PSC approval; KCP&L cannot guarantee the notes, debentures, debt obligations, or other securities of Great Plains Energy or its subsidiaries without PSC authorization; Great Plains Energy is to maintain a common equity ratio of at least 30%, and KCP&L's common equity ratio must be at least 35%; KCP&L's total long-term debt is not to exceed rate base, and must remain separate from the holding company; and, KCP&L is to maintain an investment-grade credit rating.

Also in 2001, the PSC conditionally authorized Laclede Gas to restructure its operations into a holding company, the Laclede Group, with subsidiaries that included Laclede Gas and its regulated operations. Laclede Gas is now known as Spire Missouri and the Laclede Group is now known as Spire Inc. (Section updated 12/19/17)

Merger activity

In approving a proposed merger, the PSC must determine that the transaction is "not detrimental to the public interest." The Missouri Public Service Commission has generally considered the following factors in determining whether a merger meets this review standard: the acquirer's experience in the utility sector; whether the acquirer has a successful track record of providing utility service; the acquirer's general financial health and ability to "absorb" the proposed transaction; and the acquirer's ability to operate the target entity safely and efficiently. There is no clear definition in state law of what would constitute a change of control of a utility business. There is no statutory timeframe within which the commission must render decisions on proposed mergers.

Since the late 1990s, the PSC has ruled on a number of mergers and asset transfers. In 1997, the PSC approved the merger of Union Electric, or UE, and Central Illinois Public Service, or CIPS, to form Ameren. The merger closed in 1997. In 2005, the PSC affirmed a previous decision in which it conditionally approved Ameren's proposal to transfer UE's Illinois electric and gas distribution assets to CIPS at book value ($138 million). The PSC's conditions pertained to the treatment of certain pre-transfer liabilities and off-system sales issues. A related service territory transfer was completed later in 2005, and UE now operates solely in Missouri. The PSC did not have jurisdiction over Ameren's 2003 and 2004 acquisitions of Illinois utilities Central Illinois Light and Illinois Power, respectively, as there was no change in control of a utility subject to its oversight.

In 1999, the PSC approved the merger of American Electric Power and Central and South West following a settlement that resolved the commission's concerns regarding the effect of the merger on retail competition in Missouri related to the companies' capacity reservation on Ameren's transmission system. The merger closed in 2000.

In 2000, UtiliCorp United, subsequently known as Aquila, and St. Joseph Light & Power merged following PSC approval. However, the commission rejected a related five-year alternative regulation plan. In 2004, the PSC determined that UtiliCorp should not be allowed to recover the associated acquisition premium from customers; the commission stated that it has consistently applied the net original-cost standard when placing a value on assets for purposes of establishing a utility's rates.

In 2008, KCP&L parent Great Plains Energy acquired Aquila, following conditional approval by the PSC. The former Aquila utilities in Missouri are now known as KCP&L Greater Missouri Operations. The conditions include the following: Great Plains will not be permitted to recover from ratepayers any transaction costs associated with the merger; the companies are to track merger-related synergies to demonstrate whether actual synergies exceed the transition costs associated with the merger — the company utilized regulatory lag to retain its share of synergies, and ratepayers share of the synergies have been reflected in rates through rate cases filed subsequent to the completion of the transaction; any post-merger "financial effect" of a credit downgrade of Great Plains, KCP&L, and/or Aquila, that occurs as a result of the merger is to be "borne by the shareholders"; and, the PSC "reserves the right to consider any ratemaking treatment" to be accorded the transactions in a future proceeding. In the company's 2011 rate case decision, the PSC determined that actual synergies exceeded the merger's transition costs and allowed the company to amortize these costs over a five-year period.

In a 2016 order, the PSC required that a proceeding be closed in which it had been addressing certain issues pertaining to Great Plains' proposed acquisition of Westar Energy. The staff had contended that a 2001 PSC order that permitted KCP&L to restructure its operations into the Great Plains holding company effectively gives the commission jurisdiction over the deal. The company countered the staff's claim, and the PSC determined in its order that the proceeding was only an "investigatory docket, not a case, contested or otherwise."

In April 2017, the Kansas Corporation Commission rejected Great Plains' proposed acquisition of Westar, and in light of this development, the PSC subsequently closed the proceeding in which it was conducting a review of the deal following the companies' formal request for approval. On Aug. 31, 2017, the companies filed for PSC approval of their proposed "merger of equals," and they contend that the deal is "not detrimental to the public interest." Great Plains/Westar quantified at least $50 million of total ratepayer bill credits that would be issued within 120 days of closing of the deal. The companies request that the commission issue a decision with an effective date of no later than June 21, 2018.

In 1997, Atmos Energy acquired United Cities Gas following PSC approval. In 2004, Atmos acquired former TXU Inc. subsidiary TXU Gas, following PSC approval of a settlement specifying that: the acquisition premium may not be recovered from ratepayers; company books and records continue to be available for review by the PSC Staff and the Office of Public Counsel; and, Atmos would issue at least $300 million of new equity to partially fund the acquisition. Atmos' equity issuance later in 2004 generated $235 million in net proceeds. The transaction closed in 2004.

In 2012, Atmos sold its Missouri-jurisdictional utility assets to Liberty Energy (Midstates) Corp., an affiliate of Algonquin Power & Utilities Corp., following PSC approval of a related settlement. The transaction also involved the sale of Atmos' Illinois and Iowa utility assets to Liberty Energy. The approved settlement provides for Liberty to maintain Atmos' existing tariffs. The transaction closed later in 2012, and the new entity is known as Liberty Utilities (Midstates Natural Gas), d/b/a Liberty Utilities.

In 2006, the PSC authorized Empire District Gas, or EDG, to acquire Aquila's Missouri-jurisdictional gas utility operations following a settlement that imposed a three-year base rate freeze.

In September 2016, the PSC adopted several settlements, thereby approving Algonquin Power and Utilities' proposed acquisition of EDG parent Empire District Electric. The transaction was completed in January 2017.

In 2012, Energy Transfer Equity, or ETE, acquired Southern Union following PSC approval of a related settlement. The approved settlement specified, among other things, that: Southern Union was to be prohibited from guaranteeing certain debts incurred by ETE affiliate Energy Transfer Partners in conjunction with the transaction; the debt of any affiliate was to be non-recourse to Southern Union; Southern Union's equity was not to be pledged as collateral for the debt of any affiliate or non-affiliate;

Southern Union was to maintain records separate from its affiliates; Southern Union was to be prohibited from commingling its utility system with any other entity or maintain its system such that it would be "costly or difficult" to separate its assets from those of an affiliate; Southern Union was to continue to be subject to certain customer service performance measures and maintain certain operating procedures; Southern Union agreed to ensure that the company's retail gas distribution rates would not increase as a result of the merger; any adverse impact of the merger on Southern Union's credit ratings would deserve "consideration" by the PSC in future proceedings; the acquisition premium and the transaction and transition costs associated with the merger were not to be recoverable in retail distribution rates; and, Southern Union was to continue its service-line and main replacement programs.

In 2013, Southern Union division Missouri Gas Energy, or MGE, was acquired by a subsidiary of the Laclede Group. The PSC had approved a related settlement specifying, among other things, that: MGE is to record a $125 million "rate base offset" and will be permitted to amortize this amount over a ten-year period; the company is prohibited from recovering, from its retail distribution customers, any acquisition premium and transaction-related costs; affiliate Laclede Gas and MGE will not seek an increased cost of capital as a result of the transaction; Laclede Gas is prohibited from pledging its equity as collateral for the debt of any affiliate without first receiving PSC approval for such action; and, if the parent company's non-regulated operations were to be the cause of a downgrade in Laclede Gas' credit ratings to below investment-grade, Laclede Gas would be required to pursue additional "legal and structural separation" from the parent to ensure that Laclede Gas has "access to capital at a reasonable cost." Laclede Gas is now known as Spire Missouri and the Laclede Group is now known as Spire Inc.

In 2013, the PSC terminated its review of a proposed transaction that had called for Entergy Corp.'s utility operating companies to spin off their electric transmission assets, with those assets subsequently to be acquired by ITC Holdings. The companies had previously requested that their proposal be withdrawn in light of their inability to obtain regulatory approval for the deal in another jurisdiction.

In September 2016, the PSC adopted a settlement, thereby approving Fortis Inc.'s proposed acquisition of ITC Holdings and its subsidiary ITC Midwest, which is subject to PSC oversight with respect to the safety of a transmission line in Missouri. The deal was completed in October 2016. (Section updated 12/19/17)

Electric regulatory reform/industry restructuring

Comprehensive retail competition has not been implemented. However, a large industrial customer, Noranda Aluminum, is permitted to contract for the purchase of electric supply and delivery services outside of the PSC's jurisdiction. Noranda currently receives service from Union Electric. (Section updated 12/19/17)

Gas regulatory reform/industry restructuring

Local gas distribution companies, or LDCs, have offered transportation-only service since the late-1980s. Missouri Gas Energy offers transportation-only service to customers with gas usage of at least 2,000 MCF in any one month or annual usage of at least 30,000 CCF. Spire Missouri offers a transportation rate to customers that have annual gas usage of at least 30,000 MCF. Union Electric offers two transportation rates: a "standard rate" for certain customers with annual usage of less than 60,000 MCF; and, a "large-volume rate" for all other customers. Empire District Gas offers transportation-only service to customers with annual gas usage of at least 15,000 MCF. Liberty Utilities (Midstates Natural Gas) offers transportation-only service to customers with gas usage of at least 1,550 MCF in a single month. All of the state's LDCs offer transportation-only service to schools on an aggregated basis. No action has been taken with regard to retail choice for small-volume customers. (Section updated 12/19/17)

Adjustment clauses

State statutes permit electric utilities to request PSC approval of mechanisms that allow for the expedited recovery of costs related to fuel and purchased power, environmental compliance, renewable energy, gas commodity costs, energy efficiency costs and certain other items.

Fuel Adjustment Clauses, or FACs

According to the PSC's rules: an application for approval of an FAC must be submitted within the context of a general rate case or complaint proceeding; an FAC should provide the utility an opportunity to earn a "fair return on equity"; the commission may adjust a utility's allowed ROE in future rate proceedings if it determines that implementation of an FAC would alter the utility's business risk; incentive features may be incorporated into an FAC to improve the efficiency and cost-effectiveness of a utility's fuel and purchased power procurement activities; an FAC is to be subject to true-ups for under- and over-collections, including interest; an FAC may reflect incremental variations in off-system sales, or OSS, revenues; an FAC may remain in place for a maximum four-year term, unless the PSC authorizes an extension or modification of the FAC in the context of a general rate case, i.e., the utility must file a rate case within four years after implementation, extension, or modification of an FAC; and, such mechanisms are to be subject to a prudence review no less frequently than every 18 months.

KCP&L Greater Missouri Operations', or GMO's, FAC has 12-month recovery periods and provides for the company to recover from/flow to ratepayers 95% of incremental variations in "prudently incurred" fuel and purchased power costs, net emissions allowance costs, and OSS revenues from the levels included in base rates. In addition, certain transmission-related costs are included in GMO's FAC. In a September 2016 rate case decision, the PSC determined that the transmission costs GMO can include in its FAC are: costs incurred to transmit power, to serve its native load, that is sourced from generation plants not owned by the company (true purchased power); and, costs incurred to transmit excess power the company sells to third parties in locations outside of SPP (off-system sales). The PSC prohibited the company from recovering, through the FAC, costs related to the power that the company produces, sells into the SPP market, and subsequently repurchases for its native load.

Empire District Electric utilizes an FAC that provides for the company to recover from/flow to ratepayers, on a semi-annual basis over six-month recovery periods, 95% of incremental variations in fuel and purchased power costs, net emissions allowance costs, and OSS revenues from the levels included in base rates. In a 2015 rate case decision, the PSC required that a portion of the transmission costs Empire incurs related to its participation in the Southwest Power Pool, or SPP, market be excluded from its FAC. The commission determined that the transmission costs Empire can include in its FAC are: costs incurred to transmit power, to serve its native load, that is sourced from generation plants not owned by the company ("true purchased power"); and, costs incurred to transmit excess power the company sells to third parties in locations outside of SPP (off-system sales). The PSC prohibited the company from recovering through the FAC costs related to the power that the company produces, sells into the SPP market, and subsequently repurchases for its native load.

Union Electric, or UE, utilizes an FAC that provides for the company to recover from/flow to ratepayers 95% of incremental variations in fuel and purchased power costs, net emissions allowances, and OSS revenues from the levels included in base rates. UE's FAC incorporates three adjustments per year and eight-month-long recovery periods. In a 2015 rate case decision, the PSC determined that the transmission costs UE can include in its FAC are: costs incurred to transmit power, to serve its native load, that is sourced from generation plants not owned by the company (true purchased power); and, costs incurred to transmit excess power the company sells to third parties in locations outside of SPP (off-system sales). The PSC prohibited the company from recovering, through the FAC, costs related to the power that the company produces, sells into the SPP market, and subsequently repurchases for its native load.

In a 2015 rate case decision, the PSC authorized Kansas City Power & Light, or KCP&L, to implement an FAC that provides for the company to recover from/flow to ratepayers 95% of incremental variations in fuel and purchased power costs, net emissions allowances, and OSS revenues from the levels included in base rates. The commission determined that the transmission costs KCP&L can include in its FAC are: costs incurred to transmit power, to serve its native load, that is sourced from generation plants not owned by the company, i.e., true purchased power; and, costs incurred to transmit excess power the company sells to third parties in locations outside of SPP, i.e., off-system sales. The PSC prohibited the company from recovering through the FAC costs related to the power that the company produces, sells into the SPP market, and subsequently repurchases for its native load.

Environmental Cost Recovery Mechanisms, or ECRMs

The PSC's rules pertaining to ECRMs are similar to those in place for FACs, and specify that: the commission may consider the magnitude of costs eligible for inclusion in an ECRM and the ability of the utility to manage these costs, when determining which cost components to include in an ECRM; a portion of the utility's environmental costs may be recovered through an ECRM and a portion may be recovered through base rates; the annual recovery of environmental compliance costs is to be capped at 2.5% of the utility's Missouri gross jurisdictional revenues, less certain taxes; a utility that uses an ECRM must file for at least one, and no more than two, annual adjustments to its ECRM rate; adjustments must be made to a utility's ECRM rates within 60 days from the time of filing, if such adjustments adhere to state statutes; an ECRM may remain in place for a maximum four-year term, unless the PSC authorizes an extension in the context of a general rate case — the utility must file a general rate case within four years after implementation of an ECRM; and, such mechanisms are to be subject to a prudence review every 18 months and an annual true-up for under- and over-collections, including interest. None of the utilities currently have an ECRM in place; however, Empire, KCP&L, GMO and UE recover emissions allowance costs through their FACs.

Energy Efficiency

KCP&L, GMO and UE have in place demand-side program investment mechanisms that provide for recovery of program-related costs and a related "throughput disincentive" and may provide for a performance incentive based upon measurable and verified energy efficiency savings.

Renewable Energy

The PSC's rules specify that electric utilities may file, in the context of a rate case or in a generic proceeding, for a Renewable Energy Standards rate adjustment mechanism, or RESRAM, that would allow for rate adjustments to provide for recovery of prudently incurred costs or a pass-through of benefits received, as a result of compliance with the state's renewable energy standards. Rate increases under the RESRAM are to be capped at 1% annually; there is no limit to the credit that can be included in the RESRAM. Any costs incurred by the utility that are in excess of the cap are to be deferred for future recovery and a carrying charge is to apply to the balance. GMO has a RESRAM in place.

Other Electric

KCP&L, GMO and UE use a rider to recover costs associated with certain government-mandated investments. Empire, KCP&L, GMO and UE have a mechanism in place to recover variations in certain taxes and franchise fees.

Purchased Gas Adjustment, or PGA, Clauses

Local gas distribution companies, or LDCs, are authorized to reflect changes in gas costs through a PGA clause, with up to four adjustments permitted each year. Differences between actual costs incurred and costs reflected in rates are deferred and recovered from, or credited to, customers over a subsequent 12-month period. The companies are permitted to use financial hedging instruments to mitigate the effects of gas-price volatility, and the PSC has implemented a rule that identifies the types of hedging mechanisms that should be considered. The LDCs may request PSC approval of a mechanism to reflect the impact of changes in customer usage due to variations in weather and/or conservation; however, none of the utilities currently have such a mechanism in place. Spire Missouri and Missouri Gas Energy, or MGE, share OSS margins and capacity release revenues with ratepayers, with the related impacts reflected in the PGA clause (see the Alternative Regulation section).

Decoupling

The LDCs are permitted to request PSC approval of a mechanism to reflect the impact on revenues of changes in customer usage due to variations in weather and/or conservation. None of the LDCs currently has such a mechanism in place.

Other Gas

Spire Missouri, UE, MGE and Liberty Utilities (Midstates Natural Gas) utilize an infrastructure system replacement surcharge to recover costs associated with certain distribution system replacement projects. Liberty Utilities, Empire, Spire Missouri, MGE and UE have a mechanism in place to recover variations in certain taxes and franchise fees. (Section updated 12/19/17)

Integrated resource planning

The state's four investor-owned electric utilities that serve retail customers, namely Union Electric, or UE, Kansas City Power & Light, or KCP&L, KCP&L Greater Missouri Operations, or GMO, and Empire District Electric are required by the commission's rules to file 20-year resource plans every three years with annual updates. In these filings, the utility must consider demand-side measures on an equivalent basis with supply side alternatives, and analyze and quantify the risks associated with such factors as: future environmental regulations; load growth; fuel prices and availability; construction costs and schedules; and, demand-side program load impacts.

The Missouri Energy Efficiency Investment Act, which requires the PSC to allow electric utilities to implement demand-side programs and recover the related costs, became law in 2009 and the PSC's related rules became effective in 2011. The law does not establish specific thresholds for demand-side-program-related savings. In 2012, the commission approved a unanimous stipulation and agreement approving the following for UE: a demand-side-management plan for residential and commercial customers, beginning in 2013, a related tracker to provide for $80 million in revenue — ultimately reflected in UE's 2012 general rate proceeding — for recovery of program costs and recovery of lost fixed costs and to allow the company to earn a performance incentive based on after-the-fact verified energy savings from the programs; and, annual evaluation, measurement and verification of such programs' processes and energy and demand savings performed by an independent contractor with reported results audited by the commission's independent auditor. The tracker was replaced by a rider in 2014.

In 2012, the PSC approved a settlement for GMO that provides for: a demand-side-management plan for residential and commercial customers, that became effective in 2013, a related tracker to provide for $18 million in revenue — ultimately reflected in GMO's 2012 general rate proceeding — and recovery of lost fixed costs, and which allow the company to earn a performance incentive award based on after-the-fact verified energy and demand savings from the programs; and, annual evaluation, measurement and verification of such programs' processes and energy and demand savings performed by an independent contractor with reported results audited by the commission's independent auditor.

In 2014, the PSC approved a settlement for KCP&L that provides for: a demand-side-management plan, for residential and commercial customers, that became effective later in 2014, a related investment recovery mechanism to allow recovery of actual program costs and lost fixed costs, and which allow the company to earn a performance incentive award based on after-the-fact verification of energy and demand savings from the programs; and, annual evaluation, measurement and verification of such programs' processes and energy and demand-savings performed by an independent auditor. (Section updated 12/19/17)

Renewable energy

State statutes include a renewable energy standard, or RES, that required Missouri-jurisdictional investor-owned electric utilities to obtain at least 2% of their generation from renewable resources in calendar-years 2011 through 2013, with the threshold rising to 5% in calendar-years 2014 through 2017, to 10% in calendar-years 2018 through 2020, and to 15% in 2021 and thereafter. Eligible renewable resources include solar, wind, biomass and certain hydropower facilities, and at least 2% of each year's renewable-energy-related portfolio requirement is to be from solar resources. RES-related rules subsequently adopted by the PSC: include a restriction that adherence to the standard would result in a rate increase of no more than 1%; provide for penalties for non-compliance; and, include a provision for recovery outside the context of a general rate case for the "prudently incurred costs and the pass-through of benefits to customers of any savings achieved" in complying with the measure (see the Adjustment Clauses section). The utilities are permitted to purchase renewable energy credits to satisfy their obligations under the law.

The statute was subsequently modified to include a tiered approach to reducing applicable solar rebate amounts from $2 per watt for systems that became operational by June 30, 2014, to zero cents per watt after June 30, 2020, and provisions to allow the electric utility to cease paying rebates in any calendar year in which the maximum average retail rate impact will be reached. As a condition of receiving a rebate, customers are required to transfer to the electric utility all rights, title and interest in the renewable energy credits for a period of 10 years. Subsequent settlements approved by the PSC designated a total of $178.4 million for solar rebates in Missouri for the three electric utilities that offered rebates at that time. In 2015, the Missouri Supreme Court determined that the statutory exemption from payment of solar rebates upon which Empire District Electric had relied had previously been repealed. In accordance with the court's directive, Empire began offering solar rebates later in 2015. (Section updated 12/19/17)

Emissions

Legislation enacted in 2014 allows the Missouri Air Conservation Commission to develop less-stringent carbon-reduction standards than those included in the U.S. Environmental Protection Agency's, or EPA's, proposed carbon emissions rule for existing power plants. A "unit-by-unit analysis" is to be conducted to determine the appropriate means of compliance that, among other things, considers the cost of installing emissions-reduction equipment and the economic impact that a closure of a plant could have on the region.

In 2015, the EPA released the final version of its Clean Power Plan, or CPP. The CPP calls for a 32% reduction nationwide in the domestic power sector's carbon dioxide emissions by 2030, versus 2005 levels. For Missouri, the plan requires a 37% reduction. Many states, including Missouri, have challenged the legality of the rule, which has been stayed by the U.S. Supreme Court, pending the outcome of a review by U.S. Court of Appeals for the District of Columbia Circuit.

Although the CPP is currently before the D.C. Circuit, the EPA requested that the cases be held in abeyance, and the request was subsequently approved. The agency is required to submit status reports at 30-day intervals with the court. On Oct. 10, 2017, EPA Administrator Scott Pruitt began the formal process of reversing the efforts made to date to implement the CPP. (Section updated 12/19/17)

Rate structure

The major electric utilities have seasonally differentiated rates in place, and all of the electric utilities have some form of time-of-day rates in effect. The PSC has authorized discounted economic development electric rates for new or expanding industrial and commercial customers.

In a 2015 rate case decision that addressed certain economic development issues related to Union Electric's, or UE's, largest customer, Noranda Aluminum, the PSC established a $36/MWH base rate for Noranda and declined to eliminate the fuel adjustment clause, or FAC, charges for the company; however, prospective FAC rate adjustments applicable to Noranda are to be capped at $2/MWH. In addition, the commission noted its "intent" that base rate increases for Noranda over the next three years will be limited to 50% of the system average increase authorized, and its base rates would remain unchanged if the PSC were to order a base rate reduction for UE. Any revenue deficiency resulting from these provisions are to be proportionally allocated to UE's other ratepayers. At the time, the PSC found that it was "in the interest of all ratepayers for the commission to allow Noranda a lower rate to keep it as a customer" of UE. In March 2017, the PSC adopted a rate case settlement for UE that specifies that UE should not amortize in rates the lost fixed costs associated with reduced sales to the smelter, which is now owned by a company based in Switzerland.

In 2014, the PSC adopted a settlement that required Missouri Gas Energy, or MGE, to terminate its straight-fixed variable, or SFV, rate design for the residential and small commercial customer classes, whereby all of the company's fixed costs allocable to those customer classes were recovered through a fixed, monthly customer charge. MGE now recovers a portion of its fixed costs through the volumetric rate.

Spire Missouri has a seasonally-differentiated rate in place. In 2010, the PSC adopted a settlement that required Liberty Utilities (Midstates Natural Gas) to terminate its SFV rate design and utilize a traditional rate design under which a portion of fixed costs are recovered through volumetric charges. (Section updated 12/19/17)