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MISSOURI PUBLIC SERVICE COMMISSION

FINANCIAL AND BUSINESS ANALYSIS DIVISION

AUDITING DEPARTMENT

REBUTTAL TESTIMONY

OF

KEITH MAJORS

UNION ELECTRIC COMPANY, d/b/a AMEREN MISSOURI

CASE NO. ER-2022-0337

Jefferson City, Missouri
February 2023

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

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Q. Please state your name and business address.

A. Keith Majors, Fletcher Daniels Office Building, 615 East 13th Street, Room 201, Kansas City, Missouri, 64106.

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

A. I am a Utility Regulatory Audit Supervisor employed by the Staff ("Staff") of the Missouri Public Service Commission ("Commission").

Q. Are you the same Keith Majors who previously provided testimony in this case?

A. Yes. I provided direct testimony in this case on January 10, 2023 concerning Staff's revenue requirement recommendation and other various adjustments and topics. I also provided supplemental direct testimony on January 24 concerning Staff's updated revenue requirement used for Staff's Class Cost of Service ("CCOS") study.

Q. What is the purpose of your rebuttal testimony?

A. The purpose of this rebuttal testimony is to respond to the direct testimony of Ameren Missouri witness Ann E. Bulkley filed in this rate case concerning Ameren Missouri's regulatory and business risk. I also address Ameren Missouri witnesses Mark Birk, Karl Moor, and Jeffrey R. Holmstead's testimony concerning Rush Island.

EXECUTIVE SUMMARY

Q. Please provide a brief summary of your rebuttal testimony in this proceeding.

A. My rebuttal testimony will address portions of Ameren Missouri witness Ann E. Bulkley's direct testimony, found on pages 57 through 73, that describes some of Ms. Bulkley's expressed concerns regarding regulatory and business risk for Ameren Missouri. In response, I will provide a general discussion of regulatory lag and business risk from an accounting perspective. I will address ratemaking impacts of Plant-In-Service Accounting ("PISA", also commonly referred to as "construction accounting")[1]. Ameren Missouri elected PISA on September 1, 2018. Ameren Missouri also implemented a Renewable Energy Standard Rate Adjustment Mechanism ("RESRAM") rider[2] and first began collecting eligible costs through the RESRAM rider on February 1, 2020[3]. I will explain that PISA provides an additional layer of regulatory lag mitigation as well as earnings protection for Ameren Missouri through special deferral accounting treatment applied to qualifying capital costs, while RESRAM provides for more immediate rate recovery of costs associated with the wind and solar generation investment and other renewable costs by adjusting customer rates on an annual basis in between general rate cases. I will also provide a high level overview of the protections that are provided to Ameren Missouri as a result of other currently authorized non-traditional ratemaking procedures. I will provide a summary of the impacts of PISA that have occurred since the time of Ameren Missouri's prior electric rate case and provide details concerning the RESRAM collections that have been authorized by the Commission as part of Ameren

[1] PISA was authorized through by Missouri General Assembly in 2018 through passage of Senate Bill 564.
[2] The Missouri Renewable Energy Standard ("RES") was enacted as a voter initiative petition, Proposition C, on November 4, 2008. Mo. Rev. Stat. Section 393.1020.
[3] Ameren Missouri had previously collected renewable energy standard costs entirely as part of a Commission authorized Renewable Energy Standard ("RES") Accounting Authority Order ("AAO") that was authorized by the Commission as part of Ameren Missouri Case Nos. ER-2011-0028 and ER-2012-0166. As part of Ameren Missouri Case Nos. ER-2019-0335 and ER-2020-0086, the Commission first authorized Ameren Missouri to collect renewable energy standard eligible costs through the RESRAM rider. RES compliance retail rate impact on average retail customer rates may not exceed more than 1% as detailed in 4 CSR 240-20.100-(5). A limited portion of Ameren Missouri's renewable energy standard costs continues to be recovered through the previously authorized RES AAO.

Missouri's four RESRAM recovery periods. I will summarize the impact of the protections that Ameren Missouri's authorized non-traditional ratemaking procedures provided to it during the twelve months ending March 31, 2022 which is the test year authorized by the Commission in this rate proceeding.

Most recently, Ameren Missouri along with all Missouri utilities will benefit from the passage of Senate Bill 745 in 2022. This legislation enacted a property tax tracker, amongst other items. This tracker removes all risk of recovering this substantial expense and drastically reduces the regulatory lag of property tax recovery.

It is Staff's position that the implementation of PISA, RESRAM, and the new property tax tracker reduces Ameren Missouri's overall business risk. This fact should be considered by the Commission in making its determination of a fair and appropriate rate of return for Ameren Missouri to have a reasonable opportunity to earn as part of establishing new rates in this rate proceeding.

REGULATORY LAG

Q. What is regulatory lag?

A. Regulatory lag is the time between when a utility experiences a change in expense or revenue levels and when that change is recognized in the rates that the Commission allows a utility to charge its customers. Regulatory lag can either increase or decrease a utility's actual earnings performance compared to its authorized rate of return in between rate cases. It can be beneficial to customers, as well as to utilities. When a utility's costs increase or its revenues decrease over a period of time, regulatory lag will tend to reduce the utility's profits, adverse to the utility, unless other circumstances either completely offset or mitigate the expense increases or revenue declines. When expenses are decreasing or revenues are

increasing, regulatory lag will allow a utility to earn increased profits during the interval before the rates are changed by the Commission to address the decreased costs or increased revenues, which is a benefit to the utility. Regulatory lag provides the utility with either a penalty or a reward under traditional cost of service ratemaking where all costs are considered. This inherent penalty or reward system incentivizes a regulated utility to strive to produce lower expense levels in between rate cases and to maximize efficiency.

Q. Does regulatory lag motivate a utility to act efficiently?

A. Yes. Regulators rely on regulatory lag as a vital tool to provide an incentive to a utility to act efficiently. Excessive use of tracking mechanisms and rate riders reduces the incentive for the utility to seek out cost reductions because the utility is insulated from changes in costs and thereby may be able to maintain the utility's profits even when its costs increase. The more utilities are insulated from the impacts of increased costs through riders and surcharges, the more business risk is shifted to utility customers. If a utility experiences an increase in expense that is being tracked as authorized by the Commission, its financial results will not be adversely impacted because the impacts are captured on the balance sheet for deferral treatment with likely certainty of cost recovery. In the meantime, there will not be an overall reduction in earnings related to the increased cost because the deferred cost is being recorded on the balance sheet to capture the increased cost. In this example, the utility has less incentive to attempt to minimize any such cost increase for the tracked item. If a utility experiences a reduction in an expense that is being tracked, the financial result will not increase earnings as a result of the decreased cost level. Once again, the utility will have less incentive to seek out ways to reduce costs. Utilities may even be dis-incentivized to

reduce costs if the benefit of those lower costs are quickly flowed to customers through special regulatory mechanisms outside of general rate cases.

Furthermore, the authorized use of trackers and rider mechanisms are types of exceptions to the prohibition against "single-issue ratemaking," in that they ignore other aspects of a utility's operations that may be experiencing concurrent cost reductions. When too many trackers and special regulatory cost recovery approaches are allowed problems can result, as such approaches ignore the fundamental Missouri ratemaking criteria of providing consideration and review of "all relevant factors" when setting rates. For example, a utility can recover certain increased costs through trackers and riders while also over-recovering other costs established in existing rates determined in the last rate case, causing the utility to potentially earn above its authorized rate of return.

One clear example of positive regulatory lag producing benefits have occurred with the reduction in cost of debt for all Missouri utilities who issue debt. Ameren Missouri's cost of issued debt[4] was 6.7% and 6% in 2008 during the 2008 financial crisis. Ameren Missouri's 2012 issuance was at 3.9%, a 2016 issuance was at 3.65%, and most recently a 2021 issuance was at 2.15%. During each of these issuances, Ameren Missouri was able to refinance by redemption, repurchases, or maturities of long-term debt at substantially lower rates. In a declining debt rate environment, Ameren Missouri was and continues to be able to retain lower cost of debt savings compared to high cost of debt in customer rates in between rate cases.

Q. Please explain the Missouri ratemaking criteria which requires a consideration of "all relevant factors."

[4] Obtained from Ameren Corporation 10-k.

A. The Missouri Supreme Court ruling in State ex rel. *United Consumers Council of Missouri v. Public Service Commission*, 585 S.W. 2d 41 (Mo. Banc 1979) ("UCCM") explained the "all relevant factors" requirement that must be applied in the context of any general rate case, whether it is a "file and suspend" rate increase request case made by the utility or an earnings complaint case requested by other parties. In order to meet the UCCM standard, a complete review and audit of the utility's books and records and an assessment of its operations that takes into account all revenues, expenses, investment and rate of return must be addressed when attempting to change rates. Anything less than this type of review that takes into consideration all relevant factors in the determination of permanent rates might represent a form of "single-issue" ratemaking that is prohibited barring specific legislation which permits special rate treatment of certain items. In other words, the inclusion of certain impacts on the revenue requirement to the exclusion of other impacts, results in a "mismatch" of the revenue requirement.

Q. How has the Commission addressed the need to include all relevant factors for purposes of setting permanent rates through use of a test year?

A. The Commission has addressed this matter on a number of occasions. Specifically, in its *Report and Order* in a 1983 general rate case involving Kansas City Power & Light Company ("KCPL"), Case No. ER-83-49, the Commission stated the purpose of using a test year:

> The purpose of using a test year is to create or construct a reasonable expected level of earnings, expenses and investments during the future period in which the rates, to be determined herein, will be in effect. All of the aspects of the test year operations may be adjusted upward or downward to exclude unusual or unreasonable items, or include unusual items, by amortization or otherwise, in order to arrive at a proper allowable level of all of the elements of the Company's operations. The Commission has generally attempted to establish

> those levels at a time as close as possible to the period when the rates in question will be in effect.[5]

This concept of developing a revenue requirement calculation based on a consideration of all relevant factors has been a long-standing approach practiced by the Commission for purposes of determining permanent rates in Missouri.

BUSINESS RISK

Q. Generally speaking what is business risk for a regulated utility?

A. Business risk refers to the uncertainty linked to the operating cash flows of the utility. Business risk is multi-faceted and includes factors affecting revenues, expenses, and investment costs that could reduce a utility's profit level. In general, a utility with a certificated service area that has the ability to request changes in rates to cover changes in costs and to provide an opportunity to earn a fair return on investment has far less risk than a business or industry that has no such safeguards.[6] For example, local and regionally owned grocery stores must compete with other nearby nationwide discount retailers for a customer's purchase of groceries. Most price sensitive consumers will shop at the store that has the same products but at lower prices. Likewise, if two nearby gas stations have different pricing for gasoline, most price sensitive consumers who need to purchase gasoline will opt to fill their vehicles at the filling station with the lowest price. On the other hand, a regulated utility's customers are captive customers that have, for the most part, no practical choice other than to accept utility service and utility rates in the area in which they live or do business.

[5] *In the Matter of Kansas City Power & Light Company,* 26 Mo.P.S.C. (N.S.) 104, 109 (1983).

[6] A few specific examples of safeguards that benefit Ameren Missouri include the opportunity to earn a Commission authorized rate of return on investment, deferral accounting mechanisms such as PISA, riders such as the Fuel and Purchased Power Adjustment Clause ("FAC") and the Missouri Energy Efficiency Investment Act ("MEEIA") rider that provide cost recovery protections.

STAFF RESPONSE TO AMEREN MISSOURI ASSESSMENT OF BUSINESS RISK AND OTHER CONSIDERATIONS

Q. Please summarize Ms. Bulkley's direct testimony section that addresses business risk and other considerations.

A. Ms. Bulkley provides a brief summary of PISA and RESRAM, which are two of Ameren Missouri's most recently implemented and key regulatory lag mitigation mechanisms that were previously established by the Missouri Legislature. Generally, Ms. Bulkley highlights her perceived limitations of the PISA and RESRAM mechanisms and therefore asserts that Ameren Missouri's business risk has not been reduced by the implementation of PISA or RESRAM in comparison to a proxy group of 14 electric utilities that she selected.[7] Ms. Bulkley postulates that regardless of Ameren Missouri's implementation of PISA and RESRAM, Ameren Missouri has relatively greater risk of timely cost recovery than its peers.[8] Ms. Bulkley argues that despite the implementation of PISA and RESRAM, Ameren Missouri has greater risk relative to her proxy group in terms of regulatory treatment because, in part, Ameren Missouri is unable to include Construction Work in Progress ("CWIP") in rate base among other alleged shortcomings as some other jurisdictions allow. Ms. Bulkley's other concerns about PISA and RESRAM center on the perceived failure of these mechanisms to entirely eliminate all regulatory lag or to provide immediate cash flow for new construction related costs. Ms. Bulkley concedes that Ameren Missouri's fuel adjustment clause ("FAC") is a comparable mechanism to what all of the companies in Ameren Missouri's proxy group also have; however this is not enough to offset her overall

[7] For a listing of the proxy group, see Ms. Bulkley's direct testimony at page 36.
[8] On page 56, lines 18-20 of her direct testimony, Ms. Bulkley states that "…the threshold question is not whether PISA reduces the risk of Ameren Missouri, but rather, is Ameren Missouri's risk reduced below that of the proxy group."

concerns. Finally, Ms. Bulkley concludes that since Ameren Missouri is not able to take advantage of other regulatory lag reducing mechanisms such as CWIP in rate base, forecasted test years, use of electric revenue decoupling mechanisms that fully mitigate volumetric risk, or formula rates, it is her opinion that Ameren Missouri faces somewhat higher regulatory risk than her selected proxy group.

Q. Does Staff agree with Ameren Missouri's position outlined in Ms. Bulkley's direct testimony regarding business risk?

A. No. It is Staff's position that because Ameren Missouri has implemented the PISA and RESRAM recovery mechanisms, Ameren Missouri's business risk has certainly been reduced in absolute terms, and in addition Ameren Missouri's business risk can reasonably be assumed to now be lower in relative terms compared to its utility peers prior to Ameren Missouri's use of PISA and RESRAM. Comparatively, between the establishment of Ameren Missouri's FAC in 2008 through the present, Ameren Missouri's business risk should reasonably be considered to have plummeted.

Q. Should the Commission take this reduced business risk into consideration in the determination of a reasonable and appropriate rate of return for Ameren Missouri?

A. Yes, but not in the form of a reduction in rate of return. Conversely, the Commission should not increase rate of return on account of the alleged deficiencies in Missouri ratemaking compared to the regulatory paradigm experienced by the proxy companies. Staff is not aware of any policy or statutory impediment to the Commission doing so in relation to the impact of the recent incorporation of the PISA and RESRAM mechanisms into Ameren Missouri's ratemaking, as well as the establishment of the property tax tracker.

Q. What has been the impact of PISA mechanisms since the time that Ameren Missouri first implemented PISA?

A. As part of the prior electric rate case, Case No. ER-2021-0240, during the period covering January 1, 2021 through September 30, 2021, Ameren Missouri deferred approximately $199 million of investment related costs associated with eligible PISA investment along with additional deferred depreciation and carrying costs from the amounts deferred in Case No. ER-2019-0335. The Commission authorized a $9.9 million annual recovery of this deferred balance over a 20 year period beginning with the February 28, 2022 effective date of rates, with the unamortized balance included in rate base. In the most recent accumulation period[9], Ameren Missouri completed approximately $2 billion in total investment of which $1.96 billion was PISA eligible investment.[10] Consequently, the vast majority of Ameren Missouri's investment during this time period, 96%, was eligible for the prescribed 85% recovery of all PISA investment related costs.[11] PISA has provided a substantial boost to Ameren Missouri's earnings and cash flow that did not exist previously. As part of rates established in the 2021 Rate Case, Ameren Missouri received an approximate $24 million annual cash flow benefit.[12] The chart below summarizes the eligible PISA investment ending December 31, 2022 as well as the revenue requirement impact that Ameren Missouri continues to collect annually in current Commission authorized rates.

continued on next page

[9] Ameren Missouri is now recording the third PISA deferral including plant-in-service from October 1, 2021 through December 31, 2022.
[10] Source: Ameren Missouri response to Staff Data Request No. 0320.
[11] Ibid.
[12] This calculation was based upon Staff's midpoint rate of return and capital structure as recommended in Case No. ER-2019-0335.

PISA Layer A (2019 Rate Case)	$ 51.4 million
PISA Layer B (2021 Rate Case)	$ 199 million
PISA Layer C (2022 Rate Case)[13]	$ 181.1 million
Total Cumulative Deferrals	$ 431.5 million

PISA Layer A Amortization	$ 2.5 million
PISA Layer B Amortization	$ 9.9 million
PISA Layer C Amortization[14]	$ 9 million
Total Annual Amortization	$ 21.5 million

PISA Layer A Balance	$ 44.3 million
PISA Layer B Balance	$ 190.7 million
PISA Layer C Balance	$ 181.1 million
Pre-tax Rate of Return (Staff)	7.071%
Total Rate of Return at December 31, 2022	$ 29.4 million
Total Revenue Requirement Impact	$ 50.9 million

Once new rates are established by the Commission in this rate proceeding, the cash flow benefit pertaining to Ameren Missouri's PISA deferrals will be $50.9 million annually that would not have existed absent election of the PISA mechanism.

The key takeaway from these charts and the preceding discussion is that the PISA is clearly a substantial earnings and cash flow benefit for Ameren Missouri.

Q. What has been the impact of the RESRAM rider, since the time that Ameren Missouri first elected RESRAM recovery?

A. The Commission has authorized four RESRAM tariffs for Ameren Missouri. The table below summarizes these tariff filings:

RESRAM Case #	Accumulation Period	Revenue Requirement	Collection Period
ER-2020-0086	Jan-July 2019	$14.1 million	Feb 2020 – Jan 2021
ER-2021-0090	Aug 2019-July 2020	$5.1 million	Feb 2021 – Jan 2022
ER-2022-0091	Aug 2020-July 2021	$(31.8 million) (credit)	Feb 2022 – Jan 2023
ER-2023-0117	Aug 2021-July 2022	$10.5 million	Feb 2023 – Jan 2024

[13] Preliminary true-up, subject to change.
[14] Preliminary true-up, subject to change.

Q. What are Ameren Missouri's plans for new capital investment?

A. On February 18, 2021 Ameren Missouri submitted a five year capital plan that in Case No. EO-2019-0044. This plan indicates that significant investment levels of capital investments will continue through 2025 of which, the vast majority of the investment related costs will be eligible for PISA recovery. Additional amounts will be eligible for RESRAM recovery as well.

Capital Investment

Year	$ of Investment
2019 actual	$1.044 billion
2020[15] actual	$1.722 billion
2021[16] actual	$2.017 billion
2022 forecast	$1.613 billion
2023 forecast	$1.549 billion
2024 forecast	$1.673 billion
2025 forecast	$1.747 billion
2026 forecast	$1.834 billion
Total expected 2022 - 2026	$8.418 billion

Q. Please respond to Ms. Bulkley's concern that PISA and RESRAM do not eliminate regulatory lag.

A. While neither the PISA nor RESRAM mechanism entirely eliminates regulatory lag, they do significantly reduce Ameren Missouri's regulatory lag compared to the time period prior to PISA and RESRAM. The PISA mechanism protects earnings of the Company by deferring the impacts of added plant additions without capturing any corresponding reduction in costs associated with adding new plant absent such deferral treatment. In fact, PISA treatment allows a deferral of cost impacts that the qualified plant would have had on earnings

[15] Ameren Missouri states that approximately $622 million of the total $1.722 billion level of capital investment pertains to the recent acquisition of two new wind generation energy centers.
[16] Ameren Missouri states that approximately $519 million of the total $2.017 billion level of expected capital investment in 2021 pertains to the recent acquisition of two new wind generation energy centers.

absent this deferral mechanism. Earnings are immediately protected, because PISA eligible amounts are deferred on the balance sheet as a regulatory asset. Ameren Missouri will also recover these deferred "costs" over the life of the PISA qualified plant. Thus, a significant, immediate and long-term benefit to Ameren Missouri shareholders now exists.

The RESRAM mechanism provides more immediate cash flow and profits for Ameren Missouri between rate cases and mitigates the regulatory lag impact for costs incurred to meet the Missouri Renewable Energy Standard ("RES"). Ameren Missouri has purchased significant amounts of capital investment in wind generation and is expecting to invest significant amounts in solar energy generation in the future. RESRAM recovery provides cash flow and supports earnings in between rate cases for significant planned investments for qualified renewables in years to come.

Ameren Missouri now has flexibility in how it chooses to recover renewable capital investment related costs. Ameren Missouri can choose to recover renewable capital investment related costs as well as renewable operating expenses simply by flowing the costs entirely through the RESRAM. Alternatively, Ameren Missouri can recover 85% of the renewable capital investment related costs through PISA and then additionally recover the remaining 15% of these renewable investment related costs through the RESRAM. This provides Ameren Missouri with the ability to recover these costs in multiple ways based upon timing of the completion of such projects as well as other circumstances.

Q. Did Ameren Missouri seek permission to implement PISA deferral accounting prior to the SB 564 legislation?

A. Yes, and the Commission rejected the request. In Ameren Missouri rate case, Case No. ER-2012-0166, Ameren Missouri requested permission to implement

PISA accounting. Ultimately, the Commission denied Ameren Missouri's request as explained in the *Report and Order* that was issued in that rate case. Please refer to Schedule KM-r1 for a copy of the Commission's ruling on Ameren Missouri's PISA request in that rate case. The Commission recognized that PISA, now codified into law, distorts the matching principle and ignores all relevant factors. The Commission noted then that "PISA would unfairly increase the company's revenue requirement at the expense of ratepayers."

Q. On page 64 of her rebuttal testimony, Ms. Bulkley notes "…while PISA does allow deferral of depreciation and return on 85 percent of the eligible investment, the utility's net income is negatively impacted between rate cases because the equity portion of that return cannot be included in the utility's reported earnings." How do you respond?

A. Ameren Missouri is compensated for the delay in recognizing these earnings by inclusion of the unamortized balances in rate base. Ameren Missouri is essentially earning a return on a return over the 20 year time amortization period which is recognized as earnings following implementation of rates. It is also important to note that the underlying investments upon which PISA deferrals are recorded are long-lived assets. Ameren Missouri will recognize the equity portion of the PISA deferrals ratably similar to capital recovery through depreciation.

Q. Please respond to Ms. Bulkley's complaint, found on page 64, lines 9 through 11, where she states that Ameren Missouri does not have the ability to include CWIP in rates through its PISA mechanism.

A. I have not performed any assessment of CWIP ratemaking allowed in other states. In November 1976, Missouri passed a referendum prohibiting electric utilities from including CWIP in customers' current rates while under construction. This law is commonly referred to as "Proposition 1" and, in effect, does not allow utilities to receive cost recovery of

CWIP until such time that the plant or capital investment is fully operational and used for service.[17] The intention of this law was to protect customers from being forced to pay for capital investment that is not capable of providing utility service and therefore would not provide an actual benefit to customers.

Proposition 1 has been in effect for over 45 years. The Commission should reject any request for an adder or increase in ROE to reduce Ameren Missouri's perceived risk.

Q. What is CWIP and how is it accounted for by electric utilities?

A. In general, CWIP represents the costs of construction associated with projects that are not yet in-service and therefore not capable of providing electric utility service to customers during construction. The Federal Energy Regulatory Commission ("FERC") Uniform System of Accounts prescribes the following accounting treatment in Account 107 for these costs:

> A. This account shall include the total of the balances of work orders for electric plant in process of construction.
>
> B. Work orders shall be cleared from this account as soon as practicable after completion of the job. Further, if a project, such as a hydroelectric project, a steam station or a transmission line, is designed to consist of two or more units or circuits which may be placed in service at different dates, any expenditures which are common to and which will be used in the operation of the project as a whole shall be included in electric plant in service upon the completion and the readiness for service of the first unit. Any expenditures which are identified exclusively with units of property not yet in service shall be included in this account.

[17] Section 393.135, RSMo (2016) Charges based on nonoperational property of electrical corporation prohibited. Any charge made or demanded by an electrical corporation for service, or in connection therewith, which is based on the costs of construction in progress upon any existing or new facility of the electrical corporation, or any other cost associated with owning, operating, maintaining, or financing any property before it is fully operational and used for service, is unjust and unreasonable, and is prohibited.

> C. Expenditures on research, development, and demonstration projects for construction of utility facilities are to be included in a separate subdivision in this account. Records must be maintained to show separately each project along with complete detail of the nature and purpose of the research, development, and demonstration project together with the related costs.

Q. Do utilities ever recover CWIP?

A. Yes. While construction costs while booked to the CWIP account are not included in permanent rates, in Missouri, as determined by the Commission in any particular rate case, the accumulated CWIP balances are included in rate base when the construction is completed and the plant is placed into service. Once plant is completed and customers start to benefit, the related costs are included in the rate structure of the utility through a rate request. While the costs of the newly completed plant are "deferred" during the time of construction, utilities are made whole through the accrual of an allowance for funds used during construction ("AFUDC"). AFUDC represents a deferred "return" mechanism recognizing the investors' cost of money during the duration of the construction project. The plant construction costs and the related AFUDC are included in the final plant costs that are ultimately included in rate base as part of a general rate case once it is fully operational and used for service.

Q. How do utilities recover these deferred construction costs?

A. When construction is completed, the construction costs accounted for in CWIP are "transferred" to plant in service. This newly completed plant is included in rate base used to determine the appropriate utility rates charged to customers. While in rate base, the completed plant is allowed a current return recovery, known as a "return on" plant. In addition,

the completed plant is allowed to be depreciated, which allows a "return of" the investment to its investors and shareholders from the utility customers who benefit from the use of this plant. Thus, utilities may recover through rates a "return on" and return of" plant throughout the investment's useful life of utility service to customers.

Q. Would Staff be supportive in concept of a utility's attempt in Missouri to recover CWIP in customer rates before plant is placed in service?

A. No. Beyond the fact that legal counsel advises the recovery of CWIP in current utility rates is not permitted, as determined by Missouri voters in 1976, allowing CWIP recovery in rates would produce unfair results for customers because:

1. It is not appropriate to charge customers for investment costs for an item such as an electric generating facility that is not capable of providing utility service during the time the plant is being constructed—in essence, customers should not have to pay for plant that is not capable of providing utility service. This construction project that is not capable of providing utility service to customers is not needed until completion. Only when customers start benefiting from use of the completed plant should rate recovery start;

2. Including CWIP in current rates prior to completion increases the likelihood that a utility would construct unnecessary investment—including CWIP in existing rate structure provides utilities incentives to complete plant that is no longer needed;

3. CWIP in current rates can create intergenerational inequities[18] and;

4. Including CWIP in current rates shifts risk from the utility to its customers by requiring customers to pay for plant that may never be completed. Utilities are required to plan and build sufficient facilities to meet existing customer needs,

[18] Intergenerational inequity in that if CWIP were collected in current rates, the utility would get the benefit of collecting the construction costs for investment that is not yet in-service today while at the same time the customers would be receiving no benefits until a later time, if ever.

> receiving a financial return for accepting this risk. By shifting risk of construction projects to utility customers, there is not typically a corresponding reduction in the utility's expected and requested rates of return. Thus, utility customers will likely pay more in rates for having to accept this additional risk.[19]

None of these consequences are desirable outcomes for Missouri ratepayers.

Q. Ms. Bulkley states at page 68 of her direct testimony that Missouri utility rates are determined using a "historical test year with limited number of "known and measurable" changes through a true-up period" and notes that the majority of the proxy group uses fully or partially forecasted test years. How do you respond?

A. The Commission has used historic test years to determine utility rates for decades. Historic test years represent twelve months of "known and measurable" data that reflects actual, audited financial information. The Commission has upheld this known and measurable approach that actual, audited results represents the most accurate form of ratemaking. In Missouri, the Staff routinely performs annualization, normalization and proposed disallowance adjustments to correct abnormalities that may exist in test year results. In addition, the Commission uses a variety of methods and procedures to ensure the very latest revenue and cost information is used to determine utility rates including updating the test year and completing a true-up audit. Throughout the process of adjusting the test year, performing an update and true-up, the appropriate relationship between revenues, expenses, and rate base must be maintained, often referred to as the "matching principle." Essentially, this means

[19] For example, South Carolina Electric & Gas Company (owned by Dominion Energy) ratepayers paid approximately $2.0 billion in rates for a nuclear power plant located near Jenkinsville, South Carolina that will not be completed. In Georgia, ratepayers are also billed for CWIP. In Georgia, since 2011, Georgia Power (a subsidiary of Southern Company) ratepayers have been paying for construction of two additional reactors at an existing nuclear power plant facility. This project has experienced delays and cost overruns. Originally planned for completion in 2017, the current timeline for completion for each of the two new reactors has been pushed back to second quarter 2022 and first quarter 2023.

revenue requirement must be developed by ensuring that all known and measurable changes influencing revenues, expenses and investment occur at a specific point in time. The test year, any update period and true-up audit cutoff is consistently determined early in the process by this Commission through a Procedural Order in every rate case. During the true-up process various annualization and normalization adjustments are made to the test year results, all with the intent to reflect the best and most recent information available to the Commission to determine rates as close to the time when those rates will be in effect as possible. In fact, the result of this lengthy and time consuming auditing process through the end of the true-up period is to reduce the impacts of regulatory lag. Also, a variety of riders and mechanisms are implemented by the Commission to set rates which significantly reduces or eliminates regulatory lag. True-ups are frequently used to address changes to revenues and costs to minimize the impact of regulatory lag. Once the cost of service analysis is completed updating the test year results, the majority of the revenue, expense and investment cost impacts are examined and updated to current levels. All of this provides the Commission with the ability to set rates based on an adjusted historic test year that provides an appropriate forward looking focus as it has done for many years.

Q. Ms. Bulkley noted there are "limited" known and measurable changes. How do you respond to this criticism?

A. Utilities are the gatekeepers of their financial records and are the first party to develop their own revenue requirements. Staff and other parties rely first on the utility itself to identify the changes in costs and revenues. If the amount of adjustments are "limited" as is alleged, then either the test year is representative of ongoing revenues or expenses, or the utility is deficient in identifying the cost drivers in the rate case process.

CURRENT AMEREN MISSOURI REGULATORY MECHANISMS

Q. Do customers pay in rates for costs that utilities request special accounting treatment?

A. Yes. Frequently, utilities such as Ameren Missouri request from the Commission what is referred to as deferral cost recovery. Often circumstances warrant costs that ordinarily would be treated currently as expenses to be instead deferred. The Commission may authorize Ameren Missouri to defer certain costs with an opportunity to request rate recovery in the future.

Q. What kinds of costs does the Commission typically allow deferral treatment?

A. There are situations that may occur during the normal operations of the utility where events happen causing costs to rise above normal levels, and above those in current rates. An ice storm is an example, where the utility is required to immediately repair damage to the transmission and distribution infrastructure, restoring power as soon as is capable. Reasonable and prudent costs to repair damage from storms, damage to equipment and facilities to restore service are allowed this special accounting treatment, with opportunity for cost recovery in future rate requests.

Q. Does Ameren Missouri have deferred costs that the Commission has authorized the use of deferred cost recovery?

A. Yes. Ameren Missouri has numerous such deferrals currently in existing rates. The Company has regulatory mechanisms and special accounting treatment that the Commission currently authorizes to mitigate the impacts of regulatory lag.

Ameren Missouri is currently using a number of differing approaches that reduce business risk with regard to cost recovery for a variety of different categories of revenue,

expense and investment related costs. Some of these approaches address changes in revenue, expense and investment related costs that occur in between rate cases through a deferral that is recorded on the balance sheet. Subsequently, the Commission has authorized the recovery from customers of the deferrals through an amortization, sometimes with rate base treatment, as part of establishing permanent rates in a general rate case. Ameren Missouri is allowed to pass on changes in fuel related costs that occur in between rate cases as part of a special rider. Ameren Missouri may also use riders to simply pass certain costs on to the customers outside of a rate case under established rules approved by the Commission. The following is a listing of the approaches that Ameren Missouri has employed to mitigate regulatory lag impacts and to provide more certainty with regard to cost recovery and profitability that are in addition to the previously discussed use of PISA and RESRAM:

1. Fuel Adjustment Clause Rider;
2. Missouri Energy Efficiency Investment Act ("MEEIA") Rider;
3. Pension and Other Post Retirement Employee Benefits ("OPEBS") Tracker - Regulatory Asset and Liability Deferral and Amortization;
4. Various Trackers - Regulatory Asset and Liability Deferrals and Amortizations;
5. Timing of rate cases to address changes in payroll and property tax expense;
6. Callaway Nuclear Power Plant Decommissioning Cost Recovery.

Q. Does Ms. Bulkley take into account Missouri's policies regarding deferral of costs and its benefits to Ameren Missouri in her evaluation of Missouri cost recovery policies?

A. No. For those not specifically defined by statue, these deferrals are authorized on a case by case basis.

ELECTRIC UTILITY ENVIRONMENTAL COST RECOVERY MECHANISM ("ECRM")

Q. Are there any other riders available to Ameren Missouri that it has not yet implemented?

A. Yes. Ameren Missouri has not requested approval for an ECRM as part of this rate case. An ECRM would allow recovery of an electric utility's prudently incurred costs directly related to compliance with federal, state or local environmental laws, rules or regulations. An ECRM would need to first be approved by the Commission in a general rate case and, if approved, recovery would be permitted for net increases or net decreases in actual prudently incurred environmental costs compared to environmental cost levels that were included in permanent rates. While the ECRM mechanism has been available to electric utilities operating in Missouri since 2009, Ameren Missouri has never implemented the use of this recovery mechanism up to this point.

CONCLUSION

Q. Please summarize Staff's recommendation with regard to business risk.

A. Ameren Missouri enjoys various and considerable protections against the impacts of regulatory lag, and the number of those protections have increased over time. It is important to note that the Commission establishes rates with the intended goal of providing Ameren Missouri with a reasonable opportunity, not a guarantee, to earn a fair rate of return. The recent implementation of PISA and RESRAM have provided additional opportunities to Ameren Missouri to reduce business risk and mitigate regulatory lag. Because of this, Staff recommends that the Commission reject Ameren Missouri's position to make an upward adjustment to ROE on account of alleged deficiencies in Missouri

ratemaking practices, and instead accept Staff witness Dr. Seoung Joun Won's recommendations with regard to rate of return.

RUSH ISLAND

Q. Concerning the retirement of the Rush Island Generating Station, please summarize your rebuttal testimony on this issue.

A. I respond generally to Ameren Missouri witnesses Karl Moor and Jeffrey R. Holmstead. Through these witnesses, Ameren Missouri seeks to re-litigate its loss at the United States 8th Circuit Court of Appeals ("Court of Appeals") concerning the violations of the Clean Air Act. Ameren Missouri witness Mark Birk, President of Ameren Missouri, also supports Ameren Missouri's decision making concerning the 2007 and 2010 Rush Island improvements that were the subject of these proceedings.

I discuss these testimonies, their deficiencies, and the implicit denial that Ameren Missouri was not the victor in these proceedings. These witnesses' testimonies are tantamount to revisionist history. These testimonies and the opinions proffered should be rejected outright.

Staff witness Claire M. Eubanks supports Staff's recommendations concerning Rush Island in her direct testimony in this case. She also responds to Ameren Missouri witnesses concerning Rush Island in her rebuttal testimony.

Q. Why did Ameren Missouri file this testimony?

A. Staff filed *Staff's Motion to Open Investigation* on February 14, 2022 to investigate. The Commission opened a docket as a result of Staff's motion.[20] The Commission directed Ameren Missouri to file direct testimony[21] in this current rate case explaining how its

[20] File No. EO-2022-0215

[21] Staff recommended Ameren Missouri file a memorandum for this purpose in File No. EO-2022-0215. Ameren Missouri replied with a request to support its decisions through testimony filed in a general rate case.

decisions resulting in the circumstances surrounding the retirement of Rush Island were prudent.

Q. Was Ameren Missouri required to procure the services of witnesses Mr. Moor and Mr. Holmstead?

A. No. These outside witnesses are both former employees of the Environmental Protection Agency ("EPA"). Ironically, both witnesses support Ameren Missouri's claimed prudence in its decisions concerning the permitting and upgrades that were the subject of the EPA complaint and subsequent litigation, in contrast with their former employers.

Both witnesses' services are being provided through the law firm Hunton Andrews Kurth LLP. Mr. Moor is being compensated a flat fee of ** [redacted] ** based on an hourly rate of ** [redacted] ** and Mr. Holmstead is being compensated ** [redacted] ** per hour, both plus travel and expenses. These costs will ostensibly be passed on to customers through rate case expense. Neither of these witnesses address the mitigation efforts by Ameren Missouri to compensate for the energy, capacity, and system reliability when Rush Island is retired. This was the "other half" of Staff's concerns and ultimately the Commission's directive for Ameren Missouri to show how its decisions resulting in the present circumstances were prudent. Ameren Missouri witnesses Mark Birk and Matt Michels address the mitigation efforts, both of whom are employed by Ameren Missouri and do not incur additional rate case expenses. The mitigation efforts include the installation of various equipment and transmission upgrades that are necessary to complete prior to the retirement of Rush Island.

Q. On page 4 of his direct testimony, Mr. Moor states "post-hoc second-guessing those decisions is not appropriate", in reference to Ameren Missouri's violations of the Clean Air Act. How do you respond?

A. The Court of Appeals weighed all of the evidence concerning Ameren Missouri's now proven violations of the Clean Air Act. In my opinion, the Commission has only to look at the Court of Appeals decision to conclude Ameren Missouri violated the Clean Air Act.

Q. What did the Court of Appeals find concerning Ameren Missouri's actions?

A. The Court of Appeals affirmed the findings of the United States District Court for the Eastern District of Missouri – St. Louis[22]:

> In summary, the district court "entered[ed] a finding of liability against Ameren," concluding that the Rush Island Unit 1 and 2 projects described above were major modifications under the CAA [Clean Air Act], Ameren violated the PSD [Prevention of Significant Deterioration] program's requirements "by failing to obtain a preconstruction permit and install best available pollution control technology," and Ameren violated Title V of the CAA. *Id.* At 1017.[23]

Q. In reference to Mr. Birk's testimony, what are some examples of statements that contradict the Court of Appeals' determinations and are revisionist history concerning Ameren Missouri's decision making?

A. On page 3 of Mr. Birk's testimony, the purpose of his testimony is to"[e]xplain why Ameren Missouri's actions were prudent and reasonable, including its determination that permits were not required for the 2007 and 2010 work…". On page 9 of his testimony, he states "I firmly believe that the facts demonstrate that Ameren Missouri has made prudent decisions designed to promote the best interests of our customers at every turn." These statements are in clear contrast to the findings of the District Court as affirmed by the Court of Appeals.

[22] *United States v. Ameren Mo. (Ameren III)*, 229 F. Supp. 3d 906 (E.D.MO.2017)
[23] Quoting *United States v. Ameren Mo. (Ameren III)*.

Q. During the 2007 and 2010 timeframe, how did other utilities address ever-increasing requirements for emissions controls on coal-fired power plants?

A. I can give perspective as to the activities of Evergy Inc.[24] and Liberty Utilities[25] concerning construction of emission controls on existing units.

Jeffrey Energy Center ("JEC") is a coal-fired three-unit site constructed in 1978, 1980, and 1983 consisting of approximately 2160 MW[26] of capacity. JEC is jointly owned by Evergy Kansas Central[27] and Evergy Missouri West. In 2004, JEC received a Notice of Violation ("NOV") from the EPA concerning the emissions of sulfur dioxide ("SO2") and nitrous oxide ("NOX"). Evergy Kansas Central ultimately executed a consent decree with the EPA to rebuild its wet Flue Gas Desulphurization ("FGD") equipment at a total cost of over $378 million for various supporting equipment and improvements and this project was completed in 2009. In 2010, Evergy Kansas Central executed another consent decree with the EPA to install one Selective Catalylic Reduction System ("SCR") and one Selective Non-Catalytic Reduction System ("SNCR"). This project was completed at the end of 2014.

Iatan 1 is a coal-fired unit of approximately 700MW capacity constructed in 1980. Evergy, Inc.[28] constructed a FGD, SCR, and fabric filter baghouse for particulate emissions at a cost of approximately $700 million. The project was completed in late 2009.

[24] At the time of construction, the utilities were doing business as Westar, Inc, Aquila, Inc., and Kansas City Power & Light Company
[25] At the time of construction, the utility was doing business as The Empire District Electric Company
[26] Megawatts
[27] Evergy Kansas Central is a Kansas electric utility, a subsidiary of Evergy, Inc., and an affiliate of Evergy Missouri Metro. Evergy Kansas Central is the operating partner and owns 92% of JEC.
[28] Iatan 1 is jointly owned by Evergy Missouri Metro, Evergy Missouri West, and Liberty Utilities.

LaCygne 1 is a coal-fired unit of approximately 728MW capacity constructed in 1973. Evergy, Inc.[29] constructed a SCR at a cost of approximately $89 million. The project was completed in 2007.

LaCygne 2 is a coal-fired unit of approximately 682MW capacity constructed in 1977. Evergy, Inc. constructed a SCR, FGD and fabric filter baghouse, amongst other improvements along with a FGD and fabric filter baghouse on LaCygne 1 at a total project cost of approximately $1.3 billion. The project was completed in 2014.

Sibley 3 was a coal-fired unit of approximately 400MW capacity constructed in 1969. Evergy, Inc. constructed a SCR at a cost of approximately $109 million. The project was completed in 2009.

Asbury 3 was a coal-fired unit of approximately 198MW capacity constructed in 1970. Liberty Utilities constructed a FGD, fabric filter baghouse, and a powder activated carbon injection system at a cost of approximately $130 million. The project was completed in 2014. A SCR was installed in 2007 at a cost of $31 million.

It is important to note that the last two examples – Sibley and Asbury, were much smaller than the Rush Island units which are about 600MW each, and were older than Rush Island which was constructed in 1976 and 1977.

Q. For the NOV at JEC, what were the violations alleged by the EPA?

A. On February 4, 2009, the United States Department of Justice announced that it had filed a civil lawsuit against us in the United States District Court for the District of Kansas. The lawsuit alleges that Every Inc. violated the Clean Air Act.[30]

[29] LaCygne 1 and 2 are jointly owned by Evergy Kansas Central and Evergy Missouri Metro.
[30] Westar Energy, Inc. Form 8-K dated February 5, 2009.

Specifically, the EPA alleged the following:

> 39. At various times, Westar commenced construction and operation of major modifications, as defined in the Act and the Kansas SIP, at the Jeffrey Energy Center. These modifications included physical changes or changes in the method of operation at each of the three Jeffrey Energy Center units, including: (1) replacing the front **reheater** and lower final superheater on Jeffrey unit 2 in 1994; (2) replacing the final superheater on Jeffrey unit 1 in 1995; (3) replacing the front reheater and final superheater on Jeffrey unit 3 in 1997; (4) replacing the **economizer** on Jeffrey unit 1 in 1999; and (5) replacing the **economizer** on Jeffrey unit 2 in 1999. These modifications resulted in significant net emissions increases…[31] [Emphasis added.]

Q. Are these modifications dissimilar to those improvements at issue at Rush Island?

A. I do not know as I am not an engineer. I can conclude the comparison is not wholly inaccurate as Mr. Birk described the Rush Island improvements in his direct testimony on page 4:

> In 2007 and 2010, Ameren Missouri took planned outages at Rush Island Unit 1 and Unit 2, respectively, to complete a number of projects, including to replace several of the units' main components, such as the units' **reheaters**, **economizers**, lower slopes and additionally on Unit 1, the air preheaters. [Emphasis added.]

Q. What is the purpose of identifying these environmental improvements by other utilities?

A. It is noteworthy that Evergy, Inc. agreed to two separate consent decrees to install environmental equipment after receiving NOV's. On the contrary, Ameren Missouri fought the EPA at every turn and ultimately lost. Moreover, three other adjacent electric utilities contemporaneously and voluntarily installed emissions control equipment at coal-fired generating stations, albeit at great cost, but without the benefit of PISA or the ECRM.

[31] Ibid.

These utilities benefitted from lower cost components as those installations were completed at 2007-2014 dollars and ratepayers have benefitted from cleaner air for several years.

Q. Has Staff and the Commission been supportive of these large expenditures to comply with environmental law and regulations?

A. Yes, and in large measure have encouraged them. Of the improvements I listed above, the Commission ordered limited prudence adjustments only on Iatan 1. The Commission authorized construction accounting on this project and Staff has generally been supportive of limited use of construction accounting when the size of the project is a substantial addition to rate base.

Q. You have listed the costs of the various pieces of environmental equipment. Have ratepayers benefitted from Ameren Missouri's reluctance to install environmental equipment?

A. In the somewhat narrow view that Ameren Missouri's rates are the lowest of any investor-owned electric utility and have been for some time. Ameren Missouri has operated with no modern environmental equipment retrofits similar to those installed at adjacent utilities on its Labadie, Rush Island, Meramec, and Sioux units, with the exception of the FGD project at both Sioux units completed in 2010 at a cost of $574 million.

Ameren Missouri is now faced with closing Rush Island at least 14 years prior to its planned retirement date. Had Ameren Missouri considered compliance with the NOV, customers would be paying those increased costs in or around 2010 timeframe dollars and would be benefiting from cleaner air for over a decade.

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 d/b/a Ameren Missouri's Tariffs to Adjust Its Revenues for Electric Service	)))	Case No. ER-2022-0337

AFFIDAVIT OF KEITH MAJORS

STATE OF MISSOURI)
) ss.
COUNTY OF JACKSON)

COMES NOW KEITH MAJORS and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing *Rebuttal Testimony of Keith Majors*; and that the same is true and correct according to his best knowledge and belief.

Further the Affiant sayeth not.

KEITH MAJORS

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the City of Jackson, State of Missouri, at my office in Kansas City, on this 10th day of February 2023.

Notary Public

NOTARY PUBLIC NOTARY SEAL STATE OF MISSOURI

M. RIDENHOUR
My Commission Expires
July 22, 2023
Platte County
Commission #19603483

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of Union Electric Company, d/b/a Ameren Missouri's Tariff to Increase Its Annual Revenues for Electric Service	)))	**File No. ER-2012-0166** Tariff No. YE-2012-0370

REPORT AND ORDER

Issue Date: December 12, 2012

Effective Date: December 22, 2012

> CWIP-related ADIT that reduces the utility's actual out-of-pocket investment in the new asset to only $620,000 after taxes.
>
> However, AFUDC will be accrued at 10 percent on the gross CWIP cost for the full year the asset is in CWIP, resulting in Plant-in-Service added to rate base of $1.1 million ($1 million plus $100,000 of AFUDC) with no recognition given to the CWIP-related ADIT in accruing AFUDC. Clearly, when the AFUDC rate is applied to the entire $1 million of gross investment, with no reduction for CWIP-related AFUDC, the utility is fully compensated for its gross investment in this asset. In this example, the $100,000 of allowed AFUDC on a gross $1 million investment, when the utility's after-tax net investment is only $620,000, would significantly overstate AFUDC and future rate base.[74]

In other words, failure to recognize the CWIP-related ADIT balance in the company's rate base will overstate the companies AFUDC costs and future rate base, essentially allowing the company to earn AFUDC and a return on capital supplied by ratepayers.

Conclusions of Law:

A. Missouri's Anti-CWIP statute states:

> Any charge made or demanded by an electrical corporation for service, or in connection therewith, which is based on the costs of construction in progress upon any existing or new facility of the electrical corporation, or any other cost associated with owning, operating, maintaining, or financing any property before it is fully operational and used for service, is unjust and unreasonable, and is prohibited.[75]

Decision:

As fully explained in the findings of fact, Ameren Missouri must include CWIP-related ADIT balances as an offset to rate base to avoid overstating AFUDC and future rate base, to the detriment of both current and future ratepayers.

4. Plant in Service Accounting (PISA): Should the Commission grant Ameren Missouri accounting authority to accrue a return on invested capital and to defer depreciation for non-revenue-producing plant additions in a regulatory asset during the period between the date when those plant additions begin serving

[74] Brosch Direct, Ex. 500, Pages 37-38, Lines 13-25, 1-7.

[75] Section 393.135, RSMo 2000.

customers until the date they are reflected in rate base in a later rate case?

Findings of Fact:

1. This issue is closely tied to Ameren Missouri's frequently repeated concerns about its inability to earn its allowed rate of return due to what it believes to be excessive regulatory lag.[76] The regulatory lag that plant in service accounting (PISA) aims to address results from the regulatory treatment of newly constructed plant. While the plant is being constructed, the utility is able to accrue AFUDC to compensate it for the money that is being invested in the plant. That money cannot be added directly into rate base because of Missouri's anti-CWIP statute. The AFUDC is accumulated during the construction process and is moved into rate base when the plant goes into service. The utility recovers that AFUDC cost over the remaining service life of the plant.[77]

2. AFUDC stops when the plant goes into service. At that point, the cost of the plant is eligible to be included in rate base and the plant begins depreciating. However, the utility cannot begin to recover the cost of the plant in rates until that cost is added to rate base in a subsequent rate case. There will always be some gap after AFUDC stops and before the cost of the plant can be put into rate base.[78] It is that gap that Ameren Missouri seeks to bridge through its PISA proposal.

3. PISA is a new concept developed by Ameren Missouri's Vice President, Business Planning and Controller, Lynn Barnes.[79] Since it is a new concept, it has not

[76] Barnes Rebuttal, Ex. 12, Page 18, Lines 6-9.

[77] Barnes Rebuttal, Ex. 12, Page 20, Lines 4-11.

[78] Barnes Rebuttal, Ex. 12, Page 20, Lines 12-17.

[79] Transcript, Page 582, Lines 2-4.

been adopted by any other state utility commission.[80] The PISA proposal would only apply to the net change in plant in service that is unrelated to new business. In other words, it would not apply to new service connections that would generate new revenue for the company.[81]

4. In effect, PISA would allow Ameren Missouri to continue to accrue AFUDC on eligible plant additions until that new plant can be added to the company's rate base in a future rate case. In that, it is very similar to the well-known regulatory concept of construction accounting.

5. Construction accounting is frequently used to help a utility recover the cost of single large construction projects, such as Ameren Missouri's recent Sioux Scrubber project. Through PISA, Ameren Missouri would extend that principle of cost recovery to include the many small construction projects that do not produce new revenue for the company, but collectively tie up a large amount of the company's capital outlays.[82]

6. There are several problems with Ameren Missouri's PISA proposal. First, over time, PISA could place a very heavy financial burden on ratepayers. Adoption of PISA would have no impact on the rates established for this case because the proposal is only to allow Ameren Missouri to begin to defer certain costs for possible recovery in a future rate case. However, if the Commission allows Ameren Missouri to recover the deferred costs in its next rate case there would be an impact on rates at that time.[83]

7. If PISA had been implemented in the last rate case, $637 million in plant

[80] Transcript, Page 580, Lines 17-21.

[81] Barnes Direct, Ex. 11, Page 18, Lines 4-12.

[82] Barnes Rebuttal, Ex. 12, Page 21, Lines 3-13.

[83] Transcript, Page 607, Lines 17-23.

additions would have qualified for PISA treatment during the period between the true-up date in the company's last rate case and the true-up date in this case. Lost depreciation and return that would be included in rate base under the PISA proposal amounted to $37.6 million during that period. If PISA had been in effect for this rate case, the company's annual revenue requirement would have been increased by $6.2 million.[84]

8. Although PISA would have an initial impact of around $6.2 million per year in the next rate case, those costs would not end after one year. The additional revenue Ameren Missouri would recover through PISA would continue to accumulate throughout the 30-40 year life of the assets as they depreciate.[85] Over forty years, that $6.2 million per year would total more than $240 million.[86] Of course, the PISA would not necessarily end after a single rate case. If the Commission renewed PISA for additional years, additional recoveries would tend to pancake on top of each other and the numbers could quickly become very large.

9. Second, because PISA is a new concept that has never been tested, there are no clear standards for what would be treated as a non-revenue producing asset that should be excluded from the PISA.[87] Instead, the Commission's Staff would have to sort through all the company's data to determine whether the company has properly classified those assets.[88] The burden on Staff to review company information in rate cases is already substantial.

10. Third, PISA would violate the test-year principle in that it would routinely draw

[84] Barnes Surrebuttal, Ex. 13, Pages 5-6, Lines 21-23, 1-5.

[85] Transcript, Page 669-670, Lines 7-25, 1-16.

[86] Transcript, Page 675, Lines 2-4.

[87] Brosch Direct, Ex. 500, Pages 21-22, Lines 17-23, 1-4.

[88] Transcript, Pages 743-744.

non-test year expenses into the test year for the next rate case. The test year principle is important because it is designed to match revenues and expenses at a given time to try to determine an appropriate revenue requirement for the company.[89] By drawing in certain out-of-test-year expenses to be matched against test year revenues, while not examining all factors that might demonstrate a corresponding increase in revenue or decrease in expenses, PISA would unfairly increase the company's revenue requirement at the expense of ratepayers.[90]

11. The Commission does on occasion authorize accounting authority orders and tracking mechanisms that allow a utility to defer certain extraordinary costs for possible recovery in a future rate case. Several such mechanisms are authorized in this case. In addition, the Commission has authorized the use of construction accounting to help utilities deal with the financial burden of large construction projects. However, those mechanisms are premised on the existence of some extraordinary circumstance. Ameren Missouri concedes the expenses it would recover through PISA are not extraordinary, are not volatile or unpredictable, and are not outside the company's control. [91]

12. Fourth, Ameren Missouri contends PISA is needed to provide the company with a greater incentive to invest limited capital in needed infrastructure repairs and replacement.[92] However, while Ameren Missouri's witness testified that there are some additional discretionary capital projects the company might like to undertake if it were allowed PISA, it did not demonstrate that there is any great un-met need for additional

[89] Robertson Direct, Ex. 406, Page 6, Lines 3-6.

[90] Brosch Direct, Ex. 500, Pages19-20, Lines 15-22, 1-12.

[91] Transcript, Page 656-657, Lines 18-23, 1-20.

[92] Barnes Direct, Ex. 11, Page 19, Lines 6-16.

capital investment to ensure delivery of safe and adequate service.[93] Indeed, there is reason to be concerned that PISA would encourage Ameren Missouri to undertake capital projects that, while helpful, are not necessary to provide safe and adequate service, thereby unnecessarily driving up rates.

13. Finally, PISA seems to be a solution in search of a problem. Ameren Missouri has had difficulty earning its allowed ROE in the past several years. The company likes to blame that failure on systemic problems in Missouri's regulatory scheme that lead to excessive regulatory lag.[94] However, many businesses and individuals have been unable to earn as much as they might like in the economic conditions prevailing in recent years.

14. Furthermore, utility ratemaking is forward looking, concerned with current and anticipated financial conditions. What the company has earned in the past does not necessarily tell us what it will be able to earn in this future.[95] In the past several rate cases, the Commission has implemented several trackers and other regulatory measures that should enhance Ameren Missouri's ability to earn its allowed rate of return. Those previous measures should be allowed an opportunity to work before further measures are undertaken.

15. Indeed, a surveillance report that Ameren Missouri supplied to Staff showed that for the 12 months ended June 30, 2012, within the true-up period for this case, Ameren Missouri's actual earned return on equity was 10.53 percent, which is above the 10.2 percent return on equity allowed in its last rate case.[96] Ameren Missouri attempted to

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[93] Transcript, Pages 699-700.

[94] Baxter Direct, Page 14, Lines 2-4.

[95] Brosch Direct, Ex. 500,Page 9, Lines 5-9.

[96] Exhibit 237.

dismiss that 10.53 percent return as being attributable to warmer than normal weather and to other anomalies, but there it is. Under the circumstances, it is not clear that there is a systemic problem that needs to be solved with PISA.

Conclusions of Law:

There are no additional conclusions of law for this issue.

Decision:

After considering Ameren Missouri's PISA proposal, the Commission finds that PISA would be bad public policy and should not be authorized.

5. Rate Case Expense: What is the appropriate amount to include in Ameren Missouri's revenue requirement for rate case expense?

Findings of Fact:

1. Rate case expense is the amount Ameren Missouri has spent to present and defend its rate increase request before the Commission. Ameren Missouri incurs such costs to procure expert testimony and to pay its lawyers to present that testimony.

2. Ameren Missouri estimates it will spend $1,903,000 for rate case expense in this case.[97] That number is necessarily an estimate because most rate case expenses are incurred in conjunction with the hearing, which, of course, occurs after the true-up date of July 31, 2012. Indeed, the actual final cost figures will not be known until after this report and order is issued.[98]

3. Ameren Missouri proposes to calculate the amount of rate case expense to be included in rates by averaging the actual rate case expenses from the company's two prior rate cases with its estimate of expenses for this case. Rate case expense for File No.

[97] Weiss Direct, Ex. 5, Page 28, Lines 7-8.

[98] Transcript, Pages 862-863, Lines 2-25, 1-12.