BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Union Electric Company d/b/a AmerenUE's Tariffs To Increase Its Annual Revenues for Electric Service	)))	Case No. ER-2011-0028

POST-HEARING BRIEF OF THE MISSOURI INDUSTRIAL ENERGY CONSUMERS

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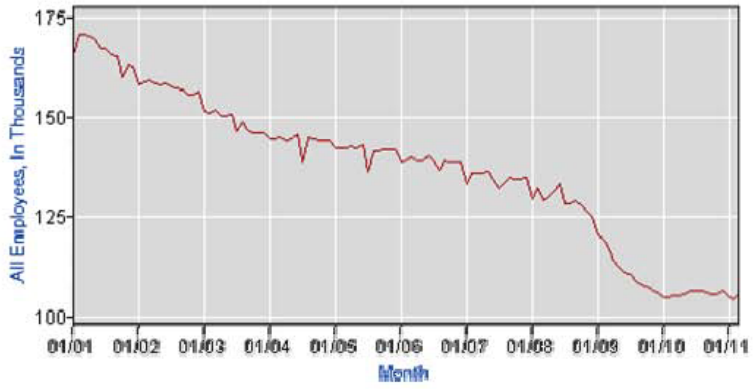
MISSOURI INDUSTRIAL ENERGY CONSUMERS' POST-HEARING BRIEF

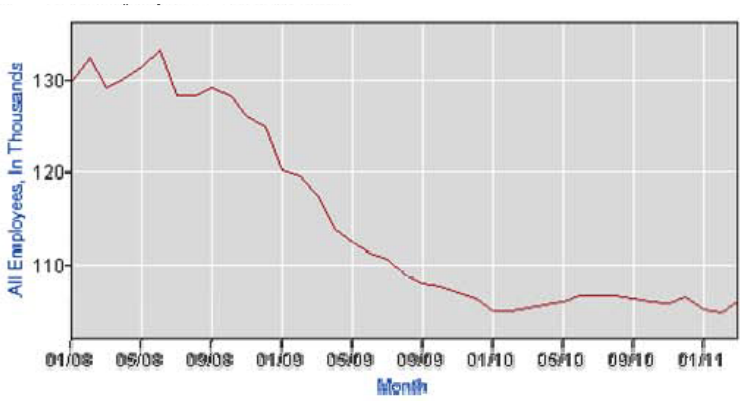
The Missouri Industrial Energy Consumers ("MIEC") respectfully submits its Post-Hearing Brief.

I. INTRODUCTION

This Commission is about to issue its fourth Ameren rate decision in barely over four years against a backdrop of severe economic crisis. Missouri has yet to recover from the dramatic loss of manufacturing jobs which has eroded our economic base for over a decade. The Bureau of Labor Statistics chart below demonstrates the St. Louis area's loss of manufacturing jobs over the past ten years:



A similar Bureau of Labor Statistics chart shows the continuation of the St. Louis area's manufacturing job crisis over the past two years:



There could not be a worse time to increase the rate burden on Missouri employers.

Yet during the past two years, Ameren Missouri's customers have experienced severe rate increases[1]:

[1]Brubaker Direct, Ex. 403 at Schedule MEB-RR1.

Ameren Missouri

Recent and Proposed Increases in Missouri Electric Rates ($/Millions)

Line	Date of Increase	Base Rate Increase (1)	Fuel Adjustment Increase (2)	Total Increase (3)
1	March 2009	$162		
2	October 2009		$(13)	
3	February 2010		$19	
4	June 2010		$45	
5	July 2010	$229		
6	October 2010		$72	
7	February 2011		$63	
8	Granted to Date	$391	$186	$577 (28%)
9	August 2011*	$263		263
10	Total	$654		$840 (41%)

* Proposed

The Commission is part of the Department of Economic Development and is charged with safeguarding Missouri's economy. The Commission's decision in this case will impact Missouri's ability to attract and retain high paying jobs. To protect Missouri's economic development asset of relatively reasonable rates, the Commission must be vigilant to prevent rates from increasing more than absolutely necessary.

Missouri industry is our job base and driver of economic growth. Rate increases cause job loss and lost purchasing power of residential customers. Ameren Missouri is a monopoly and has no competitive force to control its price. In contrast, Missouri manufacturers compete

intensely in a global economy. While Ameren Missouri should recover its prudent costs and a fair return, the Commission should consider Missouri's economic crisis when balancing the interests of Ameren Missouri's shareholders and customers.

The MIEC submitted evidence on the following major issues in this case that were not settled and are before the Commission for decision.

II. RATE OF RETURN

A. Introduction

The evidence presented in this case supports the conclusion that the appropriate return on common equity ("ROE") for Ameren Missouri is 9.9%. Specifically, this conclusion is consistent with the recommendations of MIEC Witness Mike Gorman, and MEG witness Billie Sue LaConte. In addition, when reasonable adjustments are included in the calculations of Ameren Missouri's witness, Robert Hevert, his testimony also supports an ROE of 9.9%. The appropriate ROE for Ameren Missouri is the principal disputed issue with respect to Ameren Missouri's overall rate of return in this case.

B. Capital Structure

Ameren Missouri's capital structure as proposed by Ameren Missouri witness Mr. Michael G. O'Bryan is shown below in Table 1.

TABLE 1

Ameren Missouri's Proposed Capital Structure
(March 31, 2010)

Description	Percent of Total Capital
Long-Term Debt	47.591%
Preferred Stock	1.490%
Common Equity	50.919%
Total Capital Structure	100.000%

Source: Schedule MGO-E1.

With an ROE of 9.9%, the overall Rate of Return for Ameren Missouri, based on this capital structure, will be 7.97%.[2]

MIEC witness Michael Gorman, Staff witness David Murray and MEG witness Billie Sue LaConte offered no changes to this proposed capital structure.[3] The parties are in general agreement concerning the estimated costs associated with Ameren Missouri's long-term debt and preferred stock. The dispute between the parties with respect to rate of return centers on the cost to be assigned to Ameren Missouri's common equity. As Mr. Gorman explained, this amount is "the return investors expect, or require, in order to make an investment in the utility."[4] The return required by investors is achieved through appreciation in the price of the stock and the payment of dividends.[5]

C. Return on Equity ("ROE")

Four expert witnesses provided testimony on Ameren Missouri's required return on equity ("ROE"): Staff witness David Murray, MEG witness Billie Sue LaConte, MIEC witness Michael Gorman and Ameren Missouri witness Robert Hevert. Although all four relied on essentially the same methodologies for determining the appropriate ROE for Ameren Missouri, the inputs they used in their calculations varied—resulting in a range of recommendations.

Ameren Missouri has asserted that the appropriate ROE in this case is 10.7%, a rate that represents a sixty basis point increase over the ROE approved by this Commission in Ameren Missouri's most recent rate case (10.1%).[6] In support of its position, Ameren Missouri offered the testimony of Robert Hevert. In Direct Testimony, Mr. Hevert recommended an ROE of

[2] Gorman Surrebuttal, Ex. 409 at Schedule MPG-SR-1.
[3] Gorman Direct, Ex. 407 at p. 8, l. 3.
[4] Gorman Direct, Ex. 407 at p. 8, l. 7.
[5] *Id.*
[6] Report and Order, Case No. ER-2010-0036 at p. 24.

10.90%, which is the midpoint of his recommended ROE range of 10.50% to 11.25%.[7] In Surrebuttal Testimony, Mr. Hevert revised his recommendation downward to 10.7%, the midpoint of his revised recommended range of 10.40% to 11.25%.[8]

Mr. Hevert based his opinion on Constant Growth Discounted Cash Flow ("DCF") models and Multi-Stage DCF models. He then tested the reasonableness of his range with four Capital Asset Pricing Method ("CAPM") results (driven by two beta estimates and two risk premium estimates) and two Risk Premium analysis.[9] As explained below, Mr. Hevert's DCF analyses relied on unrealistic and unsustainable long term growth rates, and consequently, are overstated. His CAPM estimates are also overstated, due to his use of an inflated market risk premium, and an inflated beta estimate.

Staff witness Mr. Murray proposed an ROE in the range of 8.25% to 9.25%.[10] Mr. Murray's range is based on Constant Growth DCF and Multi-Stage DCF models. He then tested the reasonableness of his range with other methods including a CAPM and a "rule of thumb."[11]

MEG's witness, Ms. LaConte, stated in Surrebuttal Testimony that the appropriate ROE for Ameren Missouri should be at the lower end of her recommended range, that is, from 9.7% to 10.0%.[12] This final recommendation is a revision of the proposed range of 9.70% to 10.60% with a midpoint of 10.20% that she presented in her Direct Testimony. Ms. LaConte further explained in her Direct Testimony that if the Commission approves an Environmental Cost Recovery Mechanism ("ECRM") her recommended ROE would be on the low end of her range, 9.70% to 9.90%, due to reduced risk, but she subsequently acknowledged that Ameren Missouri

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[7] Hevert Direct, Ex. 121 at p. 3, ll. 3-9.
[8] Hevert Surrebuttal, Ex. 123 at p. 7, ll.15-18.
[9] Hevert Direct at p. 54, l. 1.
[10] Staff Report on Revenue Requirement and Cost of Service, Ex. 201 at p. 28, l. 12.
[11] *Id.* at p. 24, l. 27.
[12] LaConte Surrebuttal at p. 8, l. 11.

is not seeking an ECRM in this case.[13] Ms. LaConte based her recommendations on Constant Growth DCF models, Multi-Stage Growth DCF models, CAPM analysis and Risk Premium analysis.[14]

MIEC witness Michael Gorman recommended an ROE of 9.9% in the updated analysis presented in his Surrebuttal Testimony.[15] In his Direct Testimony, Mr. Gorman recommended an ROE of 9.75%, which is the midpoint of his range of 9.50% to 10.00%.[16] Mr. Gorman based his recommendations on a Constant Growth DCF model, a Sustainable Growth DCF model, a Multi-Stage DCF model, two Risk Premium results and a CAPM analysis.[17]

[13] LaConte Direct at p. 8, ll. 10 - 17.
[14] LaConte Surrebuttal at p. 7, ll. 7 - 10.
[15] Gorman Surrebuttal, Ex. 409 at p. 19, ll 1 though 4.
[16] Gorman Direct, Ex. 407 at p. 2, l.11.
[17] Gorman Direct, Ex. 407 at p. 9, ll. 10 -13.

The recommendations of the expert witnesses are summarized in Table 2, below.

TABLE 2

Final ROE Recommendations

Description	Hevert[1] (1)	Gorman[2] (2)	Murray[3] (3)	LaConte[4] (4)
Discounted Cash Flow Model				
Constant Growth DCF	9.38% - 11.30%	10.47%	8.50% -9.50%	10.50% -10.60%
Sustainable Growth DCF	N/A	9.38%	N/A	N/A
Multi-Stage Growth DCF	8.37% - 13.94%	10.16%	8.40% -9.15%	10.10% -10.30%
Risk Premium	10.64% -10.74%	9.90% -10.10%	N/A	9.70% - 10.00%
CAPM	10.25% -11.31%	9.79%	7.04% -8.09%	9.00% - 9.50%
Recommended ROE	**10.70%**	**9.90%**	**8.25% - 9.25%**	**9.70% - 10.00%**

Sources:
[1] Hevert Surrebuttal at 4.
[2] Gorman Surrebuttal at 18.
[3] Staff Report, Revenue Requirement, Cost of Service at 28.
[4] LaConte Direct at 2; LaConte Surrebuttal at 8.

Note that only Mr. Gorman and Mr. Hevert updated their return on equity analyses during the pendency of this case (although Ms. LaConte revised her recommendation to 9.7% to 10.0% in her Surrebuttal Testimony).[18] Mr. Gorman's updated return on equity study is set out in his

[18] Gorman Surrebuttal, Ex. 409 at p.18, l. 6; Hevert Surrebuttal, Ex. 123 at p. 7, ll.15 -18.

Surrebuttal Testimony.[19] Based on that update, which relies on market data as of April 11, 2011 and Mr. Hevert's updated proxy group, Mr. Gorman revised his recommended return on equity upward, from 9.75% to 9.90%.[20] Mr. Hevert also updated his return on equity study. As a result of that study, he reduced his return on equity recommendation from 10.9% to 10.7%.[21]

D. The Commission Should Adopt an ROE of 9.9% for Ameren Missouri

The testimony presented by the MIEC in this case shows that Ameren Missouri's recommended ROE of 10.7% is overstated and unreliable. The Commission should adopt the MIEC's recommended ROE of 9.9%. As explained in Mr. Gorman's testimony, the MIEC's recommended ROE is founded on a reasonable estimate of long term growth rates, and reasonable assumptions concerning the risk premium and market beta. Mr. Hevert's recommendations, on the other hand, rely on unrealistic and unsustainable long-term growth rates and inflated risk premium and beta estimates.[22]

Mr. Gorman performed three different DCF analyses, and his recommended ROE gives equal weight to each of these results.[23] As Mr. Gorman explained, the long-term growth rates used in any DCF analysis should not exceed the expected growth rate of the overall U.S. economy, or GDP.[24] This is because utilities cannot indefinitely sustain a growth rate that exceeds that of the overall economy.[25] Mr. Gorman noted that his Constant Growth DCF was based on a growth rate that exceeds the sustainable long-term growth rate.[26] In his multi-stage DCF analysis, Mr. Gorman relied on consensus analysts' projections of long term GDP growth

[19] Gorman Surrebuttal, Ex. 409 at p. 18, l. 6.
[20] Gorman Surrebuttal, Ex. 409 at p.19, l. 4.
[21] Hevert Surrebuttal, Ex. 123 at p. 7, l.18.
[22] Gorman Rebuttal, Ex. 408 at p. 3, ll. 25 - 27; LaConte Rebuttal, Ex 451 at p.16, ll. 7-18.
[23] Gorman Direct, Ex. 407 at p. 24, l.14; Gorman Surrebuttal, Ex. 409 at p.18, Table 1.
[24] Gorman Direct, Ex. 407 at p.18, l.13.
[25] Gorman Direct, Ex. 407 at pp.18 -19, ll. 13 - 23.
[26] Gorman Direct, Ex. 407 at p. 17, ll. 21 - 22.

rates, for his long-term steady-state growth rate.[27] As Mr. Gorman explained, this is the appropriate GDP growth rate outlook for DCF analyses, in that it is the one most likely to impact investors' decisions.[28]

Mr. Gorman also included a Sustainable Growth DCF model in his analysis, because, as he explained, the analyst growth projections included in his Constant Growth DCF model "are too high to be sustained indefinitely, as required by the model."[29] Because of this weakness in his Constant Growth DCF calculation, he "felt it appropriate in providing meaningful information to also estimate what growth could be sustained by utilities by retaining earnings, reinvesting them in plant to support growth and rate base."[30] As he explained, the Sustainable Growth DCF model takes into account "the issuance of sales above book value to increase the book value per share of the utility, which would also be an earnings growth engine for utility companies."[31] As a part of this analysis he was able to "derive what a sustainable growth rate would be for utilities based on Value Line's projections of utilities, earnings and dividends, three to five years out."[32] As Mr. Gorman noted, each of his three DCF models "provide meaningful information in a very distinct manner to help gauge what current investor return requirements are."[33]

Mr. Gorman also performed Risk Premium and CAPM analyses. He explained that because he was concerned about the low estimate produced by his CAPM analysis, he included

[27] Gorman Surrebuttal at p. 10, ll. 11 - 15.
[28] *Id.* at ll. 18 - 22.
[29] Tr. 1246, ll. 22 - 23.
[30] Tr. 1248, ll. 8 - 17.
[31] *Id.*
[32] *Id.*
[33] Tr. 1249, ll. 6 - 8.

the high end of his CAPM range in arriving at his recommendation.[34]

The overall rate of return, based on the 9.9% ROE recommended by Mr. Gorman, will support Ameren Missouri's current invest grade bond rating and overall financial integrity.[35]

E. The Commission Should Reject Ameren Missouri's Recommended ROE of 10.7%

Mr. Hevert's ROE study was severely flawed and overstated a fair ROE for Ameren Missouri. As Mr. Gorman explained, Mr. Hevert's analyses actually support an ROE in the range of 9.4% to 10.2%, when reasonable adjustments are included in his calculations.[36] Mr. Gorman's recommended ROE of 9.9% is toward the high-end of this recommended range.

Mr. Hevert's constant growth DCF analysis is overstated because it includes growth rates which are too high to be sustainable over a long-term period.[37] The constant growth model requires a growth rate which can be sustained indefinitely. A careful assessment of the analyses sponsored by Mr. Hevert proves that his constant growth DCF estimate is excessive.

To make Mr. Hevert's DCF calculations more transparent, Mr. Gorman broke out Mr. Hevert's DCF return estimates. By doing this, he revealed the growth rate and dividend yield components that are the basis of Mr. Hevert's low, median and high DCF return estimates.[38] The median and high DCF return estimates used by Mr. Hevert were based on growth rates of 5.69% and 6.71%.[39] These growth rates exceed reasonable estimates of long-term GDP growth, and are inconsistent with the rational outlook for utility growth.[40] Mr. Hevert's DCF return estimates based on these irrationally high growth rates should not be given consideration in

[34] Gorman Direct, Ex. 407 at p. 34, ll. 16 - 18.
[35] Gorman Surrebuttal, Ex. 409 at p.19, ll. 19 - 23; Schedule MPG-SR-17.
[36] Gorman Surrebuttal, Ex. 409 at p. 20, l. 3.
[37] Gorman Rebuttal, Ex. 408 at p. 6, ll. 4 - 9.
[38] Gorman Rebuttal, Ex. 408 at p. 6, l. 13, Schedule MPG-R-1.
[39] Gorman Rebuttal, Ex. 408 at p. 7, ll. 3 - 9.
[40] Gorman Rebuttal, Ex. 408 at p. 7, l. 22 - p. 8, l. 12.

establishing a fair ROE for Ameren Missouri in this case. Mr. Hevert's low-end DCF return estimate, however, was based on a growth rate of 4.36%—the only growth rate used by Mr. Hevert which is a reasonable estimate of long-term sustainable growth.[41] Relying only on Mr. Hevert's low-end Constant Growth DCF return would support a return of 9.59% to 9.76%.[42]

Mr. Hevert's multi-stage growth DCF models were also overstated because he relied on a GDP growth rate which substantially exceeds market participants' outlooks for future GDP growth. Mr. Hevert's GDP growth rate was based on a historical achieved real GDP growth rate and analysts' projected future inflation rates based on the Consumer Price Index.[43] By combining this data, Mr. Hevert estimated a future GDP growth rate of 5.75%.[44] However, Mr. Hevert's testimony is inconsistent with consensus economists' projections of real GDP and inflation projections, which forecast future nominal GDP growth to be between 4.7% and 5.1%.[45] This produces an average long-term GDP growth outlook of 4.9%.[46]

The Commission recently considered the issue of how to best assess investors' expectations of future GDP growth in the KCPL rate case. In that case, KCPL's witness relied on only historical data to derive an estimate of future GDP growth. The Commission rejected that GDP growth outlook in favor of analysts' projected GDP growth.[47] Like KCPL's witness, Mr. Hevert derived a GDP growth from historical real GDP data, and not analysts' projections of future *real* GDP growth. The Commission should use the same rationale here, and reject Mr. Hevert's GDP growth forecast, and multi-growth DCF estimates.

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[41] *See* Gorman Rebuttal, Ex. 408 at p. 7, ll. 7 - 9; Gorman Surrebuttal, Ex. 409 at p. 22, ll. 3 - 5.
[42] Gorman Rebuttal, Ex. 408 at Schedule MPG-R-1. Note that these revised calculations are based on the data included in Mr. Hevert's Direct Testimony, Ex. 121.
[43] Gorman Rebuttal, Ex. 408 at p. 10, ll. 15 - 22; Hevert Direct, Ex. 121 at p. 29, l. 3 - p. 30, l. 3.
[44] Hevert Direct, Ex. 121 at p. 29, l. 3.
[45] Gorman Rebuttal, Ex. 408 at p. 12, ll. 8 -12.
[46] *Id* at l.17.
[47] Report and Order, Case No. ER-2010-0355 at pp.115 -116.

If Mr. Hevert's multi-stage growth DCF analysis is adjusted to reflect consensus analysts' projected future GDP growth (4.9%), his multi-growth DCF study would support a return on equity in the range of 9.68% to 9.98%, with an average DCF return of 9.80%.[48]

Mr. Hevert's CAPM estimates were also overstated, due to his use of an inflated market risk premium and inflated beta estimates.[49] Adjustments to Mr. Hevert's CAPM return estimate to reflect reasonable estimates of a market risk premium and published beta estimates support a return on equity of 9.43%.[50]

Mr. Hevert proposed two calculations of market risk premium. First, he calculated a market risk premium based on a DCF return estimate for the S&P 500 (13.32%). He then derived a market risk premium (9.32%) by subtracting his risk-free rate estimate of 4.0% from his DCF return estimate. Mr. Hevert's 9.32% market risk premium is flawed because he employed a faulty DCF return model. Mr. Hevert's market DCF return estimate of 13.32% is based on a growth rate of 11.17% and a dividend yield of 2.03%.[51] A growth rate in the market of 11.17% is far too high to be a rational estimate of the long-term sustainable growth for the stock market.[52] Indeed, in the past, when GDP growth has been higher, market growth has averaged only 7.4%.[53] With real GDP growth expected to be lower going forward than it has been historically, it is not rational to expect the growth of the stock market could be higher prospectively than it has been historically.[54]

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[48] Gorman Surrebuttal, Ex. 409 at p. 21, Table 2.
[49] Gorman Surrebuttal, Ex. 409 at p. 22, l. 15.
[50] Gorman Surrebuttal, Ex. 409 at p. 21, Table 2.
[51] Gorman Rebuttal, Ex. 408 at p. 17, ll. 4 - 7.
[52] Gorman Rebuttal, Ex. 408 at p.17, ll. 13 - 23.
[53] Gorman Rebuttal, Ex. 408 at p.18, ll. 3 - 13.
[54] *Id.*

Mr. Hevert also estimated a market risk premium of 10.08% using a Sharpe methodology. Mr. Hevert started with an historical achieved market risk premium estimate of 6.7%, and then adjusted it based on the difference between volatility of futures contracts and the historical stock market.[55] As Mr. Gorman explained, Mr. Hevert's Sharpe methodology does not produce reliable results.[56] Mr. Hevert adjusted the market risk premium derived from historical beta based on volatility differentials between futures contracts and historical stock volatility. The volatility in futures contracts is not, however, an appropriate proxy for the volatility in stock investments. Simply put, Mr. Hevert based his volatility adjustments on the wrong market – the futures market, and not the stock market.[57] As such, he has not appropriately estimated a market risk premium reflecting investments for utility securities in stocks and bonds.[58]

Mr. Hevert also erroneously adjusted his utility beta estimates for use in his CAPM analysis. Mr. Hevert relied on published beta estimates, which were reasonably comparable to those used by Mr. Gorman. However, Mr. Hevert performed a second CAPM study in which he derived his own beta estimate based on stock return data from periods ranging from six months to one year. This analysis was severely flawed because stock price volatility cannot be accurately measured over such a short time period. The statistical studies used to measure this data are not statistically reliable when the data set is reduced as significantly as Mr. Hevert's data in this case. Mr. Hevert's beta methodology is also based on too short a time period to reflect stock investors' long-term return investment horizons. Therefore, the relatively short time period

[55] Gorman Rebuttal, Ex. 408 at p. 18, ll.15 - 22.
[56] Gorman Rebuttal, Ex. 408 at p. 19, ll. 7 - 13.
[57] Tr. 1110, ll. 5 - 7; Gorman Rebuttal, Ex. 408 at p.19, ll.18 - 22.
[58] Gorman Rebuttal, Ex. 408 at p.19, l. 22 - p. 20, l. 2.

used by Mr. Hevert to derive a beta estimate, is inconsistent with a long-term investment horizon of common stock.[59]

F. Conclusion

As demonstrated by the foregoing, the appropriate ROE for Ameren Missouri in this case is 9.9% in that this return is supported by the evidence and is sufficient to support Ameren Missouri's current investment grade bond rating and overall financial integrity. The record in this case does not support Ameren Missouri's recommended ROE of 10.7%. Ameren Missouri's recommendation is based on an unrealistic long-term growth rate, as well as flawed risk premium and beta estimates.

III. VEGETATION MANAGEMENT AND INFRASTRUCTURE INSPECTION TRACKER

The Commission should discontinue the use of Ameren Missouri's vegetation management and infrastructure inspections tracker, because 1) the tracker is no longer justifiable in light of the amount of information available about the cost associated of vegetation management and infrastructure inspections; and 2) the cost associated with vegetation management and infrastructure inspections does not fluctuate sufficiently to warrant the continued use of a tracker.

The Commission disfavors the overuse of trackers and will approve them only where there is insufficient evidence to establish Ameren Missouri's costs.[60] In Case No. ER-2008-0318, the Commission stated that the OPC's concern about the overuse of trackers was a "valid" concern,[61] and the Commission was careful to note that "it does not intend to allow the overuse

[59] Gorman Rebuttal, Ex. 408 at p. 14, l. 16 - p. 16, l. 5.
[60] Report and Order, Case No. ER-2008-0318, at p. 41.
[61] *Id.*

of tracking mechanisms in this case, or in future cases."[62] In ER-2008-0318, the Commission allowed the use of a tracker only because no one could "know with any certainty how much Ameren Missouri will need to spend to comply with the [Commission's new rules]."[63]

What was true of Ameren Missouri's vegetation management costs in 2008 is simply no longer true. By the end of this year, Ameren Missouri will have trimmed it's entire urban circuit. [64] Moreover, it's rural circuit will be 67% completed by the end of this year and totally completed by December, 2013.[65] The rationale for the use of the tracker in 2008 simply no longer applies.

Moreover, the Commission's vegetation management rules are no longer "very new", and it is no longer true that "no one can know with any certainty how much AmerenUE will need to spend to comply with the rule's provisions" as was the case in ER-2008-0318. By the end of this year, Ameren Missouri will have operated under the new vegetation management rules for four years,[66] and as such, has established sufficient historical date to determine its costs. Therefore, the Commission should discontinue the use of the tracker at issue in this case, as its continued use is no longer justifiable under the rationale that was used to implement the tracker. Any continued use of Ameren Missouri's vegetation management and infrastructure inspections tracker would constitute "overuse" in violation of the Commission's Report and Order in Case No. ER-2008-0318.

Additionally, Ameren Missouri's historical expense levels for vegetation management and infrastructure inspections have not fluctuated sufficiently to warrant the continued use of a

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[62] *Id.*
[63] *Id.*
[64] Wakeman Surrebuttal, Ex. 105, p. 9, ll. 19 - 20.
[65] Tr. 322, ll. 1 - 16; Wakeman Surrebuttal, Ex. 105, p. 9, ll. 18 - 21.
[66] Tr. 322, ll. 1 - 3.

tracker. Below are two tables demonstrating Ameren Missouri's expense levels for both vegetation management and infrastructure inspections:[67]

Historical Expense Comparison of Vegetation Management Costs

Case No.	True-Up Level ($/Millions)	Difference from Previous Case ($/Millions)
ER-2008-0318	49.7	
ER-2010-0036	50.4	.7
ER-2011-0028	52.2	1.8

Historical Expense Comparison of Infrastructure Inspections

Case No.	True-Up Level ($/Millions)	Difference from Previous Case ($/Millions)
ER-2008-0318	5.6	
ER-2010-0036	7.6	2.0
ER-2011-0028	7.8	.2

As the tables demonstrate, Ameren Missouri's expense levels for vegetation management and infrastructure inspections have shown little volatility since the implementation of the tracker in Case No. ER-2008-0318. As such, the continued use of the tracker is unnecessary and unwarranted. Therefore, the Commission should discontinue the use of Ameren Missouri's vegetation management and infrastructure inspections tracker.

[67] Meyer Surrebuttal, Ex. 402 at p. 13.

IV. STORM COSTS

The Commission should allow Ameren Missouri no more than $4.9 million in storm recovery costs, because such an amount will adequately compensate Ameren Missouri for its actually incurred storm costs. Additionally, the Commission should deny Ameren Missouri's baseless request for a five year amortization of $1 million, because Ameren Missouri has actually over-collected (rather than under-collected) for its actually incurred storm costs through the true-up period in this case.

For years the Commission has properly employed the regulatory tools at its disposal to allow Ameren Missouri adequate storm recovery.[68] Indeed, Ameren Missouri has recovered every dollar it has incurred in storm costs since at least 2007 thanks to the Commission's consistent application of the traditional regulatory methods for storm recovery.[69] Moreover, Ameren Missouri's request of $7.1 million[70] is based on a flawed methodology that seriously exaggerates the amount Ameren Missouri is likely to incur in storm costs.

Ameren Missouri's proposed methodology of averaging storm costs over the past forty-seven months is flawed, because it purports to offer a "normalized" level of storm costs, but includes within its normalization period two outlier events. First, Ameren Missouri includes within its "normalization period" a storm that has been described by Ameren Missouri as "the most severe ice storm to ever hit Ameren Missouri's system."[71] The purported "normalization" period is further flawed because it includes the most expensive storm preparation cost ($8.1

[68] Tr. 341, ll. 12 - 18.
[69] *Id. see also* Meyer Surrebuttal, Ex. 401, p. 24, ll. 2 - 6.
[70] Barnes Rebuttal, Ex. 103 at p. 15, ll. 1 - 3.
[71] *See* Wakeman Rebuttal, Ex. 105 at p. 10, l. 20 through p. 11, l. 2; *see also* Case No. EO-2010-0255, Barnes Surrebuttal, Ex. 4 at p. 3, ll. 6 - 7.

million)[72] ever incurred by the Company in its history. Ameren Missouri's argument that its methodology of averaging 47 months of storm costs "smooth[s] out the highs and lows"[73] of costs incurred by the company is false. Any normalization period that includes both the most severe ice storm in Ameren Missouri's history and the most expensive storm preparation costs ever incurred by Ameren Missouri does not "smooth out the highs and lows" of storm costs. On the contrary, it produces an inordinately high level of storm costs by averaging into the costs outlier events that are considered "storms of the century."[74] In other words, Ameren Missouri's "normalization" period is far from normal. The Commission should not be swayed by Ameren Missouri's flawed methodology that includes inordinately high and outlier expenses.

Rather, the Commission should adopt the far more prudent and reasonable methodology advanced by MIEC of normalizing storm costs over the past 23 months.[75] This methodology is much more sound as it reflects the increased attention Ameren Missouri has dedicated to its transmission and distribution as a result of the Commission's 2008 infrastructure inspections and vegetation management rules.

Ameren Missouri's implementation of the Commission's new vegetation management and infrastructure inspections rules in January and July 2008 respectively, will likely decrease Ameren Missouri's storm recovery costs going forward. Ameren Missouri began implementing the Commission's new vegetation management rules in January 2008.[76] Those rules require that Ameren Missouri trim foliage further back from Ameren Missouri's power lines than was

[72] Wakeman Rebuttal, Ex. 105, p. 10, l. 13 through p. 11, l. 13.
[73] Barnes Rebuttal, Ex. 103, p. 14, ll. 14-23.
[74] Tr.1340, l. 25 through 1341, l. 3.
[75] Meyer Surrebuttal, Ex. 401 at p. 23, ll. 19-22.
[76] Tr. 322, ll.1-3.

trimmed prior to the implementation of the rules.[77] As a result of Ameren Missouri implementing the more stringent vegetation management requirements, the amount of damage to Ameren Missouri's power lines and the corresponding cost of repairs will likely continue to decrease in the future rather than increase because the limbs surrounding Ameren Missouri's power lines are less likely to strike the power lines than before.[78] For the foregoing reasons, the Commission should disregard Ameren Missouri's request for $7.1 million in storm recovery and allow the far more reasonable and prudent amount of $4.9 million.

It should be noted that MIEC's normalized amount of $4.9 million corresponds closely to the Missouri Public Service Commission's Staff's recommendation of $4.8 million, which was based on an adjusted 47 month normalization period.[79] Although the MIEC and Staff employed entirely different methodologies, they reached roughly the same proposed allowance, further demonstrating that Ameren Missouri's methodology simply exaggerates and inflates the company's likely storm costs going forward. As such, the Commission should allow $4.9 million to be recovered in rates for storm recovery costs.

Additionally, the Commission should deny Ameren Missouri's baseless request for a five-year amortization of $1 million. From the beginning of the test year in this case (April 1, 2009) through the true-up period (February 28, 2011), Ameren Missouri ratepayers paid $10.7 million in rates for the repairs from major storms.[80] During that same period, Ameren Missouri incurred only $9.3 million in storm costs.[81] As such, Missouri ratepayers provided not only *sufficient* amounts for Ameren Missouri to recover its storm costs, they provided Ameren

[77] Tr. 310, l. 21 through 311, l. 1.
[78] Tr. 312, ll. 11-20.
[79] Cassidy Surrebuttal, Ex. 207, p. 12, ll. 6-8.
[80] Tr. 347, ll. 7 through 349, l. 5.
[81] Tr. 349, ll. 6-25.

Missouri with $1.4 million in *additional* revenues over and above actually incurred storm costs.[82] Indeed, as was demonstrated during cross-examination of Ameren Missouri's witness Ms. Barnes, Ameren Missouri actually over-collected in revenues for storm cost recovery through the true-up period in this case:

> Q. So for this period from April '09 to 2/28, the company over-collected about $1.4 million; is that correct?
> A. Based on your math, that is correct.
> Q. Well, is your math any different than mine?
> A. No. . . .
> Q. . . . So the company over-collected $1.4 million?
> A. Uh-huh.[83]

As such, Ameren Missouri's request for a five-year amortization of $1 million[84] is baseless, because Ameren Missouri has more than recovered for actually incurred storm costs, and has in fact over-collected by $1.4 million for storm recovery.

V. PROPERTY TAXES

The Commission should deny Ameren Missouri's request for $10 million dollars[85] over and above the amount stipulated by the parties to recover for its future estimated property taxes, because 1) the requested amount is not known and measurable; and 2) the amount requested by Ameren Missouri will likely exceed the amount Ameren Missouri will actually incur in property taxes for 2011.

The Commission should deny Ameren Missouri's request that millions of additional dollars be added to its cost of service for tax recovery, because the amount requested is not known and measurable. First, the Company does not know the amount at which the taxing

[82] Tr. 350, ll.-14.
[83] *Id.*
[84] Barnes Surrebuttal, Ex. 103 at p. 15, ll. 18-22.
[85] Meyer Direct, Ex. 400 at p. 16, ll. 1-6.

authorities have assessed Ameren Missouri's real and personal property for 2011.[86] Second, Ameren Missouri does not know the tax rates applicable to the assessed value of its real and personal property for 2011.[87] As such, Ameren Missouri does not know the amount it will owe in taxes in 2011.[88] In fact, Ameren Missouri will still not know how much it owes in taxes for 2011 when rates go into effect in this case this August.[89]

Moreover, whatever amount Ameren Missouri will owe in taxes in 2011 will not be due until five months after rates go into effect and ten months after the true-up period in this case.[90] Essentially, Ameren Missouri is seeking millions of dollars based on an unverifiable projection of future estimated costs that it may or may not incur long after the true-up period in this case. Ameren Missouri's projection of estimated costs that fall outside of the true-up period simply fails to constitute a known and measurable cost recoverable in rates. As such, Ameren Missouri's request should be denied.

Additionally, the Commission should deny Ameren's request for millions in additional property tax recovery, because Ameren Missouri is likely to pay *less* in property taxes in 2011 than it was required to pay in 2010. The parties to this case have stipulated to $119 million in cost of service for property taxes.[91] This amount was based on Ameren Missouri's tax bill from 2010.[92] Ameren Missouri is currently disputing $28 million in the property taxes it was required to pay from 2010.[93] Moreover, Ameren Missouri anticipates prevailing on its appeal.[94] If

[86] Tr. 305, ll. 14-20.
[87] Tr. 1306, ll. 2-10.
[88] Tr. 1306, ll. 2-18.
[89] Tr. 1307, ll. 8-15.
[90] Tr. 1307, ll. 19-23.
[91] First Nonunanimous Stipulation and Agreement – Miscellaneous Revenue Requirement Items
[92] Tr. 1298, ll. 3-6.
[93] Petition for Rehearing on Behalf of Union Electric Company d/b/a AmerenUE.
[94] Tr. 1338, ll. 1-7.

Ameren Missouri prevails on its appeal as anticipated, it's 2010 taxes could be reduced to as low as $91 million, and it's 2011 taxes will be reduced by a corresponding amount.[95] Therefore, Ameren Missouri's 2011 taxes are likely to be less than the $119 million to which the parties have already stipulated. Allowing any more in recovery than the amount to which the parties stipulated simply makes no sense in light of the fact that Ameren Missouri's 2011 tax bill will likely be less than, not more than, the amount stipulated. Thus, the Commission should deny Ameren Missouri's request for any amount over and above the amount to which the parties have already stipulated in this case.

VI. FUEL ADJUSTMENT CLAUSE RECOVERY PERIOD

The MIEC takes issue with Staff's unsupported proposal to shorten the recovery/refund period in the fuel adjustment clause ("FAC") from twelve months to eight months. This proposal was not made by Ameren Missouri. Rather, this proposal originated from Staff in the absence of consultation with any other party.[96]

The existing twelve-month reconciliation period has the benefit of moderating the FAC by spreading any recovery/refund over a full calendar year. Since there is no way to know in advance during what months of the calendar year over- or under-recoveries will occur, a twelve-month recovery period is neutral and avoids concentrating this reconciliation in a shortened period during which some customer classes could bear a disproportionate share of usage.[97] The existing twelve-month period also moderates the impact of adjustments. Since interest is paid at the short-term borrowing rate, and since it cannot be known in advance

[95] Tr. 1309, l. 17 through 1311, l. 12.
[96] Tr. 1566, ll. 5-9; Tr. 1568, ll. 9-20.
[97] Brubaker Rebuttal, Ex. 405 at p. 14.

whether there will be refunds or surcharges, the current twelve-month recovery period is symmetrical and fair to all parties.

The dramatic impact of Staff's proposal is demonstrated by MIEC Exhibit Nos. 416 and 417. These exhibits were introduced during the cross-examination of Staff Witness Mantle, who sponsored Staff's proposal, and are attached to this brief. Both the graphical presentation (MIEC Exhibit No. 416) and the tabular presentation (MIEC Exhibit No. 417) show the substantial difference between the twelve-month and the eight-month recovery.. In fact, in recovery period number three, the difference between the existing twelve-month recovery period and Staff's proposed eight month recovery period would have been an increase of 86% in the level of the charges. MIEC submits that there has already been enough escalation and volatility in the FAC, and that no benefits have been shown for abandoning the twelve-month period in favor of a shorter time period.

Ms. Mantle candidly admitted that the eight-month recovery period would have produced charges that were significantly higher and more volatile than under the existing twelve-month recovery period.[98]

Staff has not provided any justification for changing the period from twelve months to eight months and the existing twelve-month period should be retained.

VII. ENERGY EFFICIENCY AND DEMAND SIDE MANAGEMENT (DSM) ISSUES

A. The Commission Should Allow Ameren Missouri to Recover its Direct Costs for Approved DSM and Energy Efficiency Programs by Including Those Costs in Rate Base and Amortizing Them Over 10 Years

Energy Efficiency and DSM program costs (Demand Side Costs) should be treated equally with supply side resource costs, such as generating equipment, since they both benefit consumers over multiple future years. While generating equipment is depreciated over its useful

[98] Tr. p.1571, ll.15-20.

life, Demand Side Costs are recorded in a "regulatory asset" account and should be amortized over the life of the benefits produced by the demand side measures. This is consistent with the concept that regulators match the cost associated with the resource to the customers taking the service at the time the benefits of the resource are realized.[99] Fair cost recovery would be frustrated if Ameren Missouri recovered its Demand Side Costs over a shorter period than the period over which customers were receiving the benefits from the programs for which the costs were incurred. For example, if a demand side measure evenly benefitted consumers over a 10-year period, but the cost of that measure was recovered in the first three years of the program, customers during the first 3 years would bear all of the program costs, while deriving only 30% of the program benefits.[100]

In this case, it is undisputed that the weighted average life of the demand side measures at issue is 12 years.[101] To be conservative, Mr. Brubaker recommended a 10-year amortization rather than a 12-year amortization.[102] Other witnesses recommended a 6-year amortization period, with Laura Wolfe recommending that demand side costs be expensed immediately with no amortization.[103] However, the only basis for the recommended 6-year amortization period was that it had been agreed to as part of a non-precedential stipulation of many issues in the last Ameren Missouri rate case.[104] Prior to that stipulation, Ameren Missouri amortized these costs over ten years.[105] Even one of the current proponents of the 6-year amortization period,

[99] Brubaker Direct, Ex. 403, p. 11, l. 16 through p. 12, l. 8.
[100] Brubaker Direct, Ex. 403, p. 13, ll. 1-7.
[101] Brubaker Direct, Ex. 403, p. 13, ll. 8-15; Tr. 2042, l. 20 through p. 2043, l. 14.
[102] Brubaker Direct, Ex. 403, p. 14, ll. 14-8.
[103] Wolfe Surrebuttal, Ex. 802, p. 11, ll. 1-22.
[104] Brubaker Direct, Ex. 403, p. 10, ll. 12-15; Davis Direct, Ex. 114, p. 4, ll. 10-12.
[105] Davis Direct, Ex. 114, p. 4, ll. 1-5.

William Davis, agreed that it was not based upon "objective criteria" because it resulted merely from a negotiation.[106]

Ms. Wolfe recommended expensing Demand Side Costs, not because the programs benefitted only ratepayers in the year a particular program cost was incurred, but rather because she believed that such a treatment would incent demand side expenditures.[107] While such an incentive effect may be true, it may be true for all expenditures and does not govern appropriate accounting treatment. Incenting DSM program spending is no basis for violating the principle that those customers reaping the benefits of a measure bear the cost of that measure.

Moreover, it is the policy of Missouri to value demand-side investments equal to traditional investments in supply side investments.[108] To allow the expense treatment offered by Ms. Wolfe, or to amortize the Demand Side Costs over six years when the benefits of the demand side measures last 12 years, would be to give priority to demand side investments over traditional supply side investments. Further, as Mr. Brubaker stated, even with 10-year amortization, demand side cost recovery is already superior to supply side cost recovery both from a cash flow standpoint and an earnings standpoint. Investment in supply side resources is typically recovered over a period of forty years or longer. While Demand Side Costs will be recovered over ten years, only one fourth of supply side costs would be recovered in that same period. Ameren realizes a return of capital four times faster on its Demand Side Costs.[109]

From an earnings perspective, a 10-year amortization of Demand Side Costs is also superior to the recovery of supply side costs. When a supply side resource is constructed, Ameren is allowed to accrue carrying charges during the construction period, but such carrying

[106] Tr. 1801, ll. 15-20; Davis Direct, Ex. 114, p. 4, ll. 10-12.
[107] Wolfe Surrebuttal, Ex. 802, p. 11, ll. 1-22.
[108] Section 393.1075.3, RSMo.
[109] Brubaker Direct, Ex. 403, p. 15, l. 11 through p. 16, l. 21.

charges cease when the asset is placed in service. Depending on the timing of a rate case, several years could pass before the costs of these assets are recognized. By contrast, because Ameren Missouri accrues carrying charges on its Demand Side Costs until those costs are recognized in a future rate case, there is no period of time where such carrying charges are not recovered.[110] Absent extraordinary accounting treatment by agreement of the parties to a rate case, there will be a loss of cost recovery before any supply side expenditures will be included in rates.[111]

In summary, the only objective evidence in the record regarding the appropriate term of amortization of Demand Side Costs is the testimony of Mr. Brubaker. To be faithful to the principle that those realizing the benefits of a measure pay for it, and to comply with section 393.1075.3's requirement that supply-side and demand side investments be equally valued, the Demand Side Costs should be amortized over ten years.

B. The Commission Should Reject Ameren Missouri's "Billing Unit Adjustment"

Ameren Missouri has identified a "throughput disincentive" that it claims naturally results from the reduced consumption of electricity caused by its demand side measures. In other words, Ameren Missouri, a seller of electricity, incurs Demand Side Costs that directly lead to selling less product than it otherwise would have sold had it not engaged in the demand side measures. Because Ameren Missouri, like all vendors, naturally aspires to sell as much of its product as possible, it has a natural disincentive to encourage less consumption of its product. Ameren Missouri could, as the result of its demand side measures, sell less electricity than it did during its test year in this rate case. Ameren Missouri's proposal goes well beyond addressing that issue, an issue already addressed in this Commission's regulation 4 CSR 240-20.093. Rather, Ameren Missouri has identified an opportunity for further increased sales that it may lose

[110] Brubaker Direct, Ex. 403, p. 17, ll. 1-18.
[111] Brubaker Surrebuttal, Ex. 406, p. 9, ll. 13-20.

as the result of its demand side measures. For example, it might have realized a windfall increase in sales of $50 million above estimated sales using test year figures because of hotter than average weather, improving economic conditions, or some other factor that increased overall demand.[112] However, because of the demand side measures that it employs, that windfall may be only $20 million. Ameren seeks an adjustment to its test year normalized billing units (Billing Unit Adjustment or "BUA") so that it can recover that anticipated lost revenue (in the example, $30 million) from prospective DSM impacts and restore its opportunity to reap the full windfall from increased sales above the test year sales ($50 million in the example). Ameren Missouri's BUA is admittedly unique and "novel" and is not employed anywhere else.[113] To be sure, the BUA will restore a lost windfall to Ameren Missouri by overstating prices to consumers now based upon estimated future DSM impacts.

Ameren Missouri proposes the BUA for the stated purpose of eliminating the so-called "throughput disincentive." In fact however, the BUA is designed to compensate Ameren Missouri for expected "lost revenue;" the BUA anticipates future lost revenue, as Ameren Missouri defines it, and builds the estimated lost revenue into rates, thus preventing the loss of that revenue. And the BUA does not eliminate the throughput disincentive.[114] Ameren witness Davis conceded that fact.[115]

Moreover, the BUA conflicts with this Commission's policy on recovery of "lost revenue," as adopted in its regulation 4 CSR 240-20.093. The Commission's policy as reflected in the regulation is consistent with the policy of the National Action Plan for Energy

[112] Brosch Supplemental, Ex. 420, p. 2, l. 20 through p. 3, l. 8.
[113] Tr. 1911, ll. 1-12 (Davis testimony).
[114] Rogers Supplemental, Ex. 246, p. 2, ll. 21-25.
[115] Tr. 1869, ll. 11-16; Tr. 1878, ll. 10-21.

Efficiency.[116] The regulation allows Ameren Missouri to recover the portion of its lost revenue from lost sales on an after-the-fact, rather than prospective, basis after verification that the lost revenue was attributable to demand side measures.[117] Also, the regulation defines "lost revenue" differently than the BUA. The regulation requires Ameren to experience lower sales overall, in comparison to previously established test year levels, before customers are charged for any lost revenue.[118] This approach properly recognizes that a utility can experience DSM-driven conservation impacts but still enjoy increases above test year levels in its total sales volumes.

Other than the Ameren witnesses, every witness in this case to address the BUA opposed it. That includes the Commission Staff (Rogers and Mantle), the OPC (Kind), the MIEC (Brosch), MEG (LaConte) and the MDNR (Wolfe). As explained in detail below, this Commission should reject the BUA, not only because it conflicts with the policy reflected in regulation 4 CSR 240-20.093, but because the policy embodied in the BUA is improper piecemeal ratemaking that would charge customers higher rates today based upon speculative calculations regarding potential future DSM sales impacts.

The BUA could simply afford Ameren Missouri a windfall at the expense of current ratepayers. Witness Brosch succinctly made the point that Ameren Missouri can still recover its fixed costs and earn a fair return without the BUA:

> Q IF AMEREN MISSOURI ACTUALLY EXPERIENCES MEASURABLE LOST MWH SALES AS A DIRECT RESULT OF ITS SUPPORT OF DSM PROGRAMS, IS THERE ANY CERTAINTY THAT THE COMPANY WILL FAIL TO FULLY RECOVER ITS FIXED COSTS?
>
> A No. The Company's MWH sales volumes and other billing determinants (customer counts, KW demand volumes) can be expected to continuously change after the test year, due to ever changing general economic conditions, weather fluctuation, growth in the number of customers being served,

[116] Rogers Supplemental, Ex. 246, p. 2, l. 21 through p. 4, l. 2.
[117] *Id.;* 4 CSR 240-20.093(2)(G)5
[118] *See* 4 CSR 240-20.093(1)(Y)

> personal income levels and spending habits of its customers, and other energy usage decisions made individually by Ameren customers. Utility-sponsored DSM is only one of many variables that influence trends in Ameren's overall MWH sales volumes. It is quite possible for the Company's total sales and revenue volumes to maintain an upward trend even with ongoing DSM program sponsorship. If Ameren Missouri's overall sales grow in spite of DSM saving achieved by certain customers, Ameren will have a reasonable opportunity to fully recover its fixed costs on a going forward basis.[119]

Mr. Brosch also made the not-so-remarkable observation echoed by other witnesses that even with the BUA, Ameren Missouri would still have a disincentive to sell less of its product.[120] That is consistent with the Davis admission on this point.[121]

Moreover, as Mr. Brosch concluded, the BUA is not needed because accounting for actual DSM lost sales volumes occurs naturally in the rate case process:

> [T]he cumulative impact of <u>all</u> utility-sponsored DSM programs, as well as the effects of general economic conditions, customer funded conservation measures, price elasticity, weather and other variables are reflected within the embedded test year sales volumes that are subject to review and normalization in rate cases. The test year MWH sales volumes, therefore, have already captured the potentially offsetting effects of the other variables at the same point in time. The significance of [the] test year capturing of embedded DSM revenue effects is that the measurement period is synchronized with all other changes in test year sales volumes – so that all the elements of the revenue requirement calculation are properly matched.[122]

Last, as Mr. Brosch observed, it is fundamentally unfair to allow the utility to cherry pick an issue for purposes of ratemaking:

> The Company's adjustment would not retain the essential matching of revenue requirement elements in the test year. Instead, Ameren Missouri seeks to selectively reach forward for the anticipated negative energy sales impacts of utility-sponsored DSM, while ignoring the potential for improving economic conditions and/or the addition of new customers to more than offset any sales losses caused by such DSM.[123]

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[119] Brosch Supplemental, Ex. 420, p. 2, ll. 20 through p. 3, l. 8.
[120] *Id*., ll. 10-21.
[121] Tr. 1878, ll. 10-21.
[122] Brosch Supplemental, Ex. 420, p. 4, ll. 3-12.
[123] Brosch Supplemental, Ex. 420, p. 4, ll. 16-20.

The other witnesses, except for the Ameren Missouri witnesses, expressed their opposition to the BUA as well, with most echoing Mr. Brosch's concerns. *See* testimony of Rogers,[124] Mantle,[125] Kind,[126] Wolfe,[127] and LaConte.[128]

Last, Ms. Mantle noted that even were this Commission to adopt a BUA, the calculation that Ameren Missouri performed does not accurately account for lost revenues because it uses an average cost for the costs saved due to the demand side measures. In fact, utilities will avoid the marginal costs of producing power when demand is lower than it would have been, and because that marginal cost is higher than the average cost, Ameren Missouri's calculation skews the result in favor of showing more lost revenue than it should.[129]

In conclusion, the BUA is contrary to the Commission's regulations defining lost revenue and requiring recovery on a retroactive basis and is contrary to the considered judgment of all witnesses who are not employed by Ameren Missouri. This Commission should reject the BUA.

VIII. SOLAR REBATE COSTS

A. Solar Rebate costs should be capitalized, included in rate base, and amortized over a ten-year period

The undisputed facts in this case compel the conclusion that solar rebate expenditures should be included in rate base and amortized over ten years. It is undisputed that Ameren Missouri's rider "SR" (for Solar Rider) requires any customer seeking a solar rebate to "declare [that] the solar electric system will remain in place on the account holder's premise for the duration of its useful life[,] which shall be deemed to be a minimum of ten (10) years."[130] It is

[124]Rogers Surrebuttal, Ex. 222, p. 13, l. 26 through p. 14, l. 10.
[125] Mantle Supplemental, Ex. 247, p. 2, l. 1 through p. 6, l. 2.
[126] Kind Rebuttal, Ex. 431, p. 16, ll. 6-12.
[127] Wolfe Surrebuttal, Ex. 802, p. 5, ll. 1-20.
[128] LaConte Surrebuttal, Ex. 452, p. 9, ll. 1-16.
[129] Mantle Supplemental, Ex. 247, p. 6, ll. 3-14.
[130] Brubaker Direct, Ex. 403, p. 19, l. 17 through p. 20, l. 4.

further undisputed that the rider requires the "solar modules and inverters [to] be new equipment and include a manufacturer[']s warranty of ten (10) years."[131]

The expenditures for solar rebates are for the purpose of having renewable energy generating facilities, albeit small ones, that will benefit ratepayers for at least the ten years that they are required to remain in place and be under warranty. In keeping with the principle that the customers realizing the benefits of an expenditure bear its cost, it would be unreasonable to foist the entire cost of the solar rebates onto customers who are receiving only one tenth or less of the benefits.[132] But that is precisely what a one-year amortization period does.

No witness disputes the facts underlying the above conclusion (that of Mr. Brubaker) in this regard. However, Ms. Wolfe argues for expense treatment because the solar rebate expenditure is required by law under Proposition C.[133] The fact that an expenditure is required by law is a distinction without a difference. Can anyone seriously suggest that the hundreds of millions of dollars spent on pollution control equipment should be expensed merely because the Environmental Protection Agency and the Clean Air Act require those expenditures? Likewise, Mr. Weiss opines that these expenditures should be amortized over one year, essentially expensed, because Ameren Missouri does not own the solar generating equipment.[134] That too is a distinction without a difference. The solar rebate expenditures are recorded as a regulatory asset, just as the DSM expenditures are. Ameren Missouri's DSM expenditures are likewise for property that it does not own. Yet Ameren Missouri readily concedes that the DSM expenditures should be amortized over a period of years.[135]

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[131] Brubaker Direct, Ex. 403, p. 20, ll. 5-7.
[132] Brubaker Direct, Ex. 403, p. 12, ll. 4-8.
[133] Wolfe Rebuttal, Ex. 801, p. 15, ll. 8-18.
[134] Weiss Rebuttal, Ex. 131, p. 17, ll. 1-11.
[135] Tr. 1866, ll. 25 through p. 1867, l. 2 (Davis).

In conclusion, largely for the same reasons that DSM expenditures should be recovered over the life of the benefits derived from those expenditures, the solar rebate expenditures should be recovered over the life of the solar generating facilities that they finance. That period is a minimum of ten years.

IX. COST OF SERVICE AND REVENUE ALLOCATION

A. Non-Unanimous Stipulation and Agreement

On May 12, 2011, after extensive negotiations, the Office of the Public Counsel ("OPC"), AARP, the Consumers Council of Missouri, the Missouri Retailers Association, the Midwest Energy Users' Association, the Missouri Energy Group, and the MIEC filed a non-unanimous stipulation and agreement ("Agreement") resolving interclass revenue allocation issues.

The Agreement is supported by the parties representing Ameren Missouri's customers in all major customer classes that detailed in the class cost of service studies presented in this case, with the exception of customers in the lighting class. The AARP and the Consumers Council of Missouri represent customers in the residential class. The Missouri Retailers Association represents customers in the SGS and LGS customer classes. The Midwest Energy Users' Association represents customers mainly in the LGS class. MIEC represents customers mainly in the LPS and LTS customer classes. OPC represents all customer classes.

Ameren Missouri accepts the recommendation of representatives of classes that constitute over 98% of its sales, and does not oppose the Agreement.[136] Similarly, Staff does not oppose the Agreement, and in fact listed a number of positive aspects to the Agreement.[137] Mr. Scheperle identified these positive attributes as: (1) supported by the majority of customer groups, (2) close to Staff's rate design recommendation, (3) not producing rate shock,

[136] Tr. 2446, ll. 1-9.
[137] Tr. 2474, l. 6 through 2476, l.13.

(4) maintains the existing relationships among the various commercial and industrial rates, which minimizes the potential for rate switching, and (5) all rate groups would receive an increase.

The party objecting to the Agreement is the Municipal Group, which disagrees with the Agreement's revenue neutral adjustment for the lighting class.

B. Cost of Service Evidence

Despite the objection of the Municipal Group, the Agreement is fully supported by the cost of service evidence in the record.[138] This is amply demonstrated by Schedule MEB-COS-5 which is included in Mr. Brubaker's direct testimony and schedules on cost of service, revenue allocation and rate design, Exhibit No. 404. That schedule shows that the revenue neutral adjustments required to move classes to cost of service at Ameren's present overall revenue level are an increase of 9.7% to the residential class, an increase of 24.9% to the lighting class and decreases ranging between 5.0% and 10.4% for the remaining customer classes.

The Agreement applies the principle of gradualism, with a revenue neutral adjustment of +2.0 percentage points for the residential class and a revenue neutral adjustment of +4.0 percentage points for the lighting class. The residential class revenue neutral adjustment of +2.0 percentage points moves the residential class approximately 20 percent toward cost of service and the +4.0 percentage point revenue neutral adjustment for the lighting class would move it about 16 percent toward cost of service. When one considers that the lighting class did not receive any increase at all in Ameren's last rate case while other customers received an increase of over 10%,[139] it apparent that the 4.0 percentage point revenue neutral adjustment for the lighting class is modest and extremely reasonable. All four parties presenting cost of service

[138] Tr. 2517, ll. 3-19.
[139] Report and Order, Case No. ER-2010-0036 at p. 99.

results for the lighting class showed that the lighting class required a revenue neutral increase ranging from 17.6% to 24.9%.[140]

Mr. Brubaker's Schedule MEB-SR-2, page 2, from Mr. Brubaker's Exhibit No. 406 also is attached to this brief to show the results of the various class cost of service studies.[141] On this schedule, the "Company" method is the method filed by Ameren Missouri and supported by Mr. Warwick. The method designated "Company Alt. 1" is the Ameren Missouri method with $88.4 million of labor-related production maintenance expense classified as fixed costs and allocated on the demand factor, an approach which Mr. Warwick testified was reasonable.[142] The Staff's cost of service study is the corrected study filed by Staff and supported by Mr. Scheperle.

The MIEC's study supported by Mr. Brubaker differs from Ameren Missouri's study only with regard to the treatment of non-fuel production operation and maintenance ("O&M") expenses. Mr. Brubaker treats all of these costs as fixed and allocates them on the demand allocation factor. This is consistent with the method used in the current round of rate cases by Kansas City Power and Light Company, Kansas City Power and Light Company-Greater Missouri Operations and Empire District Electric Company.[143] In addition, OPC supports this treatment of non-fuel production O&M expenses and Mr. Kind incorporated this approach into his class cost of service study.[144] The MIEC's methodology is well supported by Commission precedent and should be given the most weight by the Commission.

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[140] Brubaker Surrebuttal, Ex. 406 at Schedule MEB-SR-2.
[141] OPC's cost of service study results are omitted from this page because OPC used the Peak and Average allocation method (Tr. 2501, ll. 7-9) which was rejected by this Commission in last year's Ameren Missouri rate case (Tr. 2511, ll. 15-19).
[142] Tr. 2468, ll. 5-22.
[143] Brubaker Surrebuttal, Ex. 406, p. 5 at ll. 9-21.
[144] Tr. 2501 at ll. 2-6.

The revenue neutral decreases contained in the Agreement are proportional to existing revenues, which is consistent with the cost of service studies. It provides a benefit of approximately $5 million to the SGS class, $12.6 million to the LGS/SPS class, $3.2 million to the LPS class and $2.5 million to the LTS class. Thus, approximately 75% of the movement toward cost of service is for the benefit of the two smaller non-residential customer classes, with only 25% of the benefit going to the two largest non-residential customer classes.

X. CONCLUSION

For the foregoing reasons, the MIEC respectfully requests that the Commission (1) establish an ROE of 9.9 percent; (2) deny Ameren Missouri's request for a vegetation management and infrastructure inspection tracker; (3) limit Ameren Missouri to $4.9 million in storm recovery costs and reject its request for a five year amortization of $1 million; (4) deny Ameren Missouri's request for $10 million dollars above the amount stipulated by the parties for recovery of future estimated property taxes, (5) reject Staff's proposal to shorten the current twelve-month FAC recovery period to eight months; (6) allow Ameren Missouri to recover its direct costs for approved DSM and energy efficiency programs by including those costs in rate base and amortizing them over ten years; (7) reject Ameren Missouri's billing unit adjustment; (8) find that solar rebate costs should be capitalized, included in rate base and amortized over a ten-year period; (9) adopt the non-unanimous rate design Agreement of OPC, MIEC, the Midwest Energy Users' Association, Consumers Council, AARP and the Missouri Retailers Association, or in the event the Commission rejects the Agreement, adopt the MIEC's proposed rate design based upon the recommendations of Mr. Brubaker.

Respectfully submitted,

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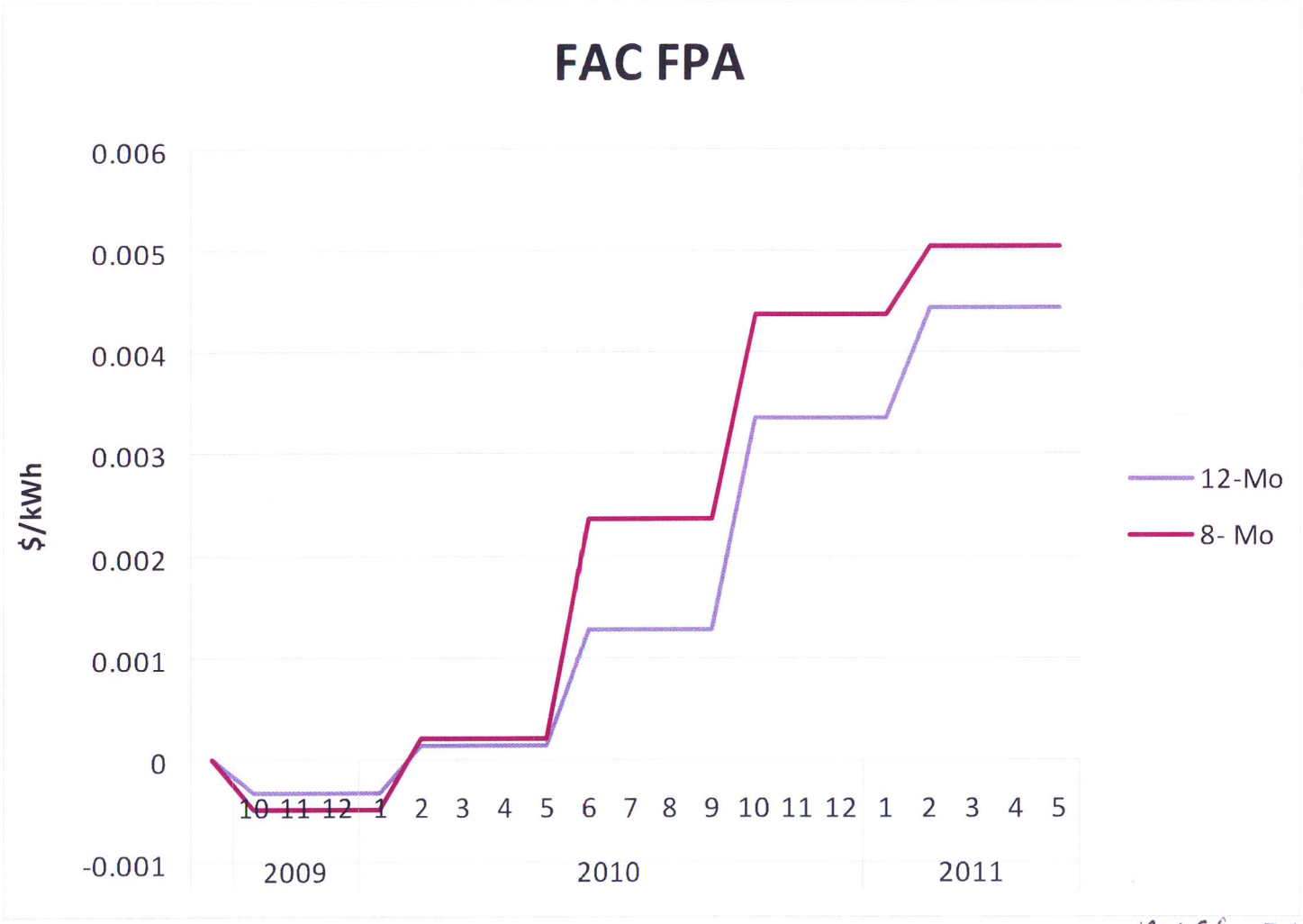
CERTIFICATE OF SERVICE

I hereby certify that the foregoing document has been transmitted by electronic mail this 2nd day of June, 2011, to all parties on the Commission's service list in this case.

s/ Diana Vuylsteke

Ameren-Missouri
ER-2011-0028
Impact of Change from 12 Month to 8 Month Recovery Periods



MIEC Exhibit No 416
Date 5-4-11 Reporter TJS
File No ER-2011-0028

FAC 8 Mo Recovery Analysis

Ameren-Missouri ER-2011-0028
Impact of Change from 12 Month to 8 Month Recovery Periods

	12-Mo RP1	8-Mo RP1	% Increase
FPA (Without Voltage Level Adjustment)	$ (0.00032)	$ (0.00050)	56%
FPA (With Voltage Level Adjustment)			
14.1 Secondary	$ (0.00035)	$ (0.00054)	54%
14.2 Primary	$ (0.00034)	$ (0.00052)	53%
14.3 Large Transmission	$ (0.00032)	$ (0.00051)	59%

	12-Mo RP2	8-Mo RP2	% Increase
FPA (Without Voltage Level Adjustment)	$ 0.00013	$ 0.00021	62%
FPA (With Voltage Level Adjustment)			
14.1 Secondary	$ 0.00014	$ 0.00023	64%
14.2 Primary	$ 0.00014	$ 0.00022	57%
14.3 Large Transmission	$ 0.00013	$ 0.00021	62%

	12-Mo RP3	8-Mo RP3	% Increase
FPA (Without Voltage Level Adjustment)	$ 0.00127	$ 0.00236	86%
FPA (With Voltage Level Adjustment)			
14.1 Secondary	$ 0.00138	$ 0.00257	86%
14.2 Primary	$ 0.00133	$ 0.00248	86%
14.3 Large Transmission	$ 0.00129	$ 0.00239	85%

	12-Mo RP4	8-Mo RP4	% Increase
FPA (Without Voltage Level Adjustment)	$ 0.00336	$ 0.00437	30%
FPA (With Voltage Level Adjustment)			
14.1 Secondary	$ 0.00366	$ 0.00476	30%
14.2 Primary	$ 0.00353	$ 0.00459	30%
14.3 Large Transmission	$ 0.00341	$ 0.00443	30%

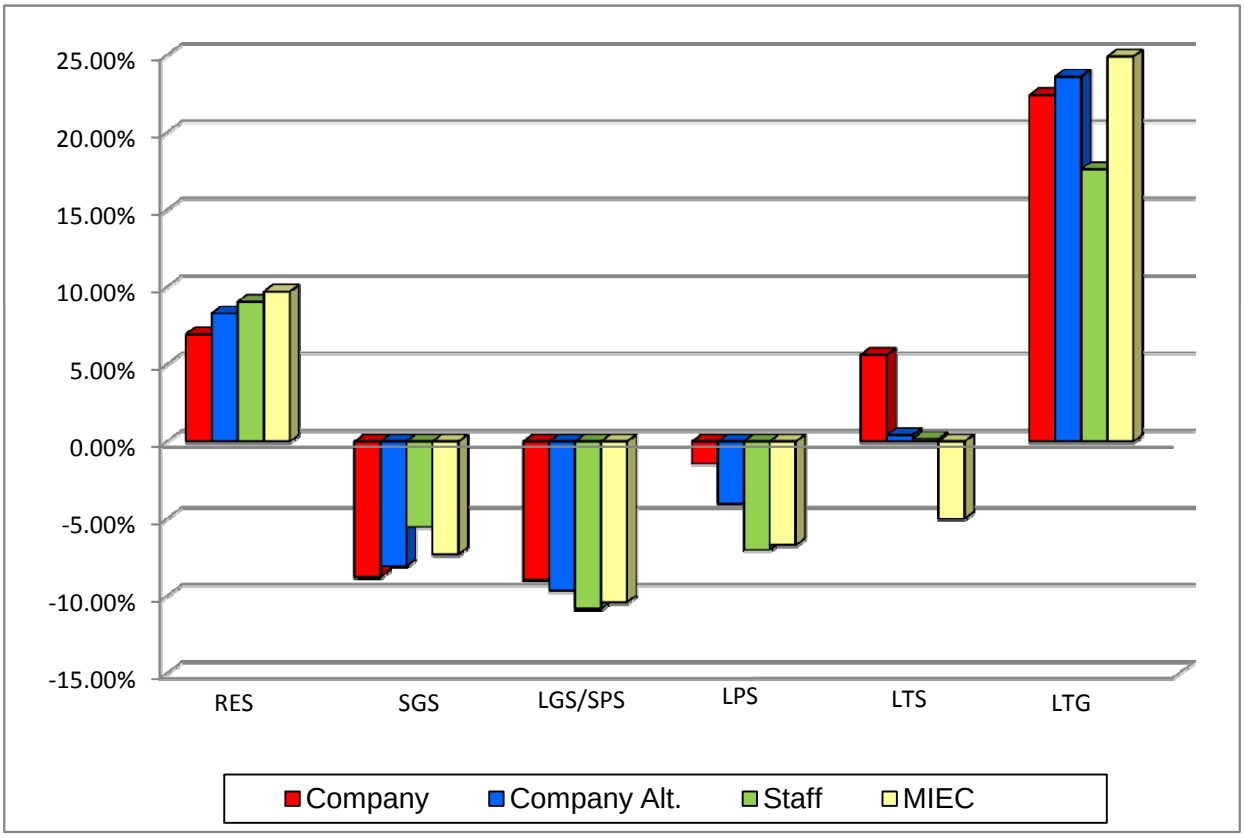
	12-Mo RP5	8-Mo RP5	% Increase
FPA (Without Voltage Level Adjustment)	$ 0.00444	$ 0.00505	14%
FPA (With Voltage Level Adjustment)			
14.1 Secondary	$ 0.00479	$ 0.00545	14%
14.2 Primary	$ 0.00464	$ 0.00528	14%
14.3 Large Transmission	$ 0.00450	$ 0.00511	14%

MIEC Exhibit No. 417
Date 5-4-11 Reporter TH
File No. ER-2011-0028

AMEREN MISSOURI

Comparison of the Class Cost of Service Results
Percent Change in Class Revenues Required to Equalize Rate of Return
(Revenue Neutral)

LINE NO.	DESCRIPTION	RES (1)	SGS (2)	LGS/SPS (3)	LPS (4)	LTS (5)	LTG (6)
1	Company	6.95%	-8.77%	-8.94%	-1.42%	5.60%	22.41%
2	Company Alt.1	8.29%	-8.05%	-9.67%	-4.02%	0.42%	23.62%
3	Staff	9.04%	-5.52%	-10.82%	-7.01%	0.17%	17.62%
4	MIEC	9.70%	-7.30%	-10.40%	-6.70%	-5.00%	24.90%



Note:

Company Alt. study is Ameren Missouri's original cost of service study with $88.4 million in labor related, production maintenance expenses allocated as fixed costs.