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 Increase Its Revenues for Electric Service.	)))	File No. ER-2021-0240

<u>REPLY BRIEF OF</u>
<u>UNION ELECTRIC COMPANY D/B/A AMEREN MISSOURI</u>

COMES NOW Union Electric Company d/b/a Ameren Missouri ("Company" or "Ameren Missouri"), and for its Reply Brief, states as follows:

<u>Introduction</u>

On December 28, 2021, the Company, Staff, the Midwest Energy Consumers Group ("MECG"), the Office of Public Counsel ("OPC"), the Consumers Council of Missouri ("CCM"), and Legal Services of Eastern Missouri, Inc. ("LSEM") filed Initial Briefs in the above-captioned matter. CCM's and LSEM's Initial Briefs adopted the portion of OPC's Initial Brief regarding the allocation of the rate increase among the various customer classes, Issue 22C,[1] and therefore, the Company will respond to OPC, CCM and LSEM on Issue 22C on a consolidated basis.

Ameren Missouri appreciates the opportunity to reply to the Initial Briefs filed by other parties. Ameren Missouri will not regurgitate arguments made in its Initial Brief, and will focus this Reply Brief on correcting misstatements by other parties and countering a couple of arguments presented in other parties' Initial Briefs. This Reply Brief takes each main issue in turn.

I. <u>Issue #17A Renaming the Residential TOU Rates</u>

A. Reply to Staff's Initial Brief

[1] The issue numbering follows the File No. ER-2021-0240, EFIS Item No. 204, *Updated Joint List of Issues, List and Order of Witnesses, Order of Cross-Examination, and Order of Opening Statements*, filed December 6, 2021, at p. 2.

The Company's reply to Staff's Initial Brief for Issue 17A is broken into three pieces. The first piece identifies and clarifies, or corrects, points from Staff's Initial Brief. The second and third pieces explain the persistent problems with Staff's renaming recommendation that remain uncured and/or unaddressed.

1. Four points in Staff's Initial Brief demand clarification or correction.

First, on page 2 of Staff's Initial Brief, Staff notes that the Company began using names such as "Overnight Saver"[2] in its customer communications "… without requesting permission from the Commission."[3] It is unclear what Staff is trying to imply through that language, but tellingly, Staff does **not** cite to any authority that would require the Company to request permission from the Commission to use any names in communications with its customers. As the Company's Initial Brief explained, the naming of rates used in communicating with Ameren Missouri's customers is within the Company's management prerogatives, has not been shown to be unlawful or harmful, and should not be changed.[4] In further clarification though, the Company was not required to seek Commission approval of its naming of rates used in communicating with its customers. Nevertheless, the Company did present to the stakeholder group at the June 2020 stakeholder meeting per the Stipulation and Agreement from the Company's last electric rate case, File No. ER-2019-0335, the "Conceptual TOU Personas" for the rate plans or the names of the rate plans that the Company planned to use in communicating with its customers, which were

[2] As explained in the Company's Initial Brief, at pp. 2 – 3, in accordance with the settlement in the Company's last electric rate case, the "EV Savers" name was renamed and became known as "Overnight Savers." File No. ER-2019-0335, *Corrected Non-Unanimous Stipulation and Agreement*, filed on February 28, 2020, at p. 10, para. 27(b)(iii).

[3] Staff similarly asserts that "Ameren Missouri previously changed the rate schedule names in its customer communications [and] [t]hose changes were made without formal Commission approval…." Staff Initial Brief, pg. 4.

[4] See Ameren Missouri's Initial Brief, at p. 6 & fn 19, citing State ex rel. Praxair, Inc. v. Missouri Pub. Serv. Comm'n, 344 S.W.3d 178, 188 (Mo. 2011), *citing*, *State ex rel. Kansas City Transit, Inc. v. Public Serv. Comm'n,* 406 S.W.2d 5, 11 (Mo. banc 1966), *quoting, State ex. rel City of St. Joseph v. Public Serv. Comm'n,* 325 Mo. 209, 30 S.W.2d 8, 14 (1930).

specifically listed to be: Anytime User, Evening/Morning Saver, Overnight Saver, Smart Saver and Ultimate Saver.[5] Furthermore, when the Company presented at the Commission's July 29, 2020 and February 24, 2021 Agenda Meetings, the Company walked through the TOU customer engagement/communications plans, which used the same rate plan names as the Company is using today.[6] Neither Staff nor the Commission identified concerns with the "Savers" naming convention at the Agenda Meetings, and neither can be surprised by the names being used by the Company in communicating with its customers.

Second, on page 3 of Staff's Initial Brief, Staff **incorrectly** states: "Ameren Missouri's direct testimony in this case did not acknowledge that it was seeking to update the rate schedule names in its tariffs, and it provided no testimony in support of its proposed changes to its residential ToU rate schedule names." Here again, it is unclear what Staff is trying to imply, and Staff does not cite to any authority that would require the Company to describe such a small change to rate schedules in testimony. Nevertheless, the Company **did specifically acknowledge** that it was seeking to update the rate schedule names in its tariffs in testimony. In Company witness Steven Wills' direct testimony, the Company explains: "… the Company has arrived on a naming strategy for the rates that are framed in terms of customer lifestyle. I will refer to each rate by the name now used in customer-facing education and communications."[7] Then, footnote 2 in Mr. Wills'

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[5] File No. ER-2019-0335, *Status Report on June 2020 Meeting and Customer Education and Communication Plans*, EFIS Item No. 379, Attachment 2, at Slide 10.

[6] Ameren Missouri's "Advancing Time of Use Rates" Presentation at the Commission's July 29, 2020 public Agenda, Slide 8, which is available at: https://psc.mo.gov/CMSInternetData/Agenda%20Presentations/2020%20Presentations/7-29-20%20Ameren%20Missouri%20Advancing%20Time%20of%20Use%20Rates.pdf. *See also*, Ameren Missouri's "Advancing Time of Use Rates" Presentation, presented at the Commission's February 24, 2021 public Agenda, which is available on the Commission's website at: https://psc.mo.gov/CMSInternetData/Agenda%20Presentations/2021%20Presentations/2-24-21%20Ameren%20Missouri%20Advancing%20TOU%20Rates%20Presentation.pdf. Slide 18 in the Appendix provides a nice summary of the TOU rate plans with their names and classification as either "Basic" or "Advanced."

[7] File No. ER-2021-0240, Exhibit 17, Direct Testimony of Steven Wills, p. 5, ll. 1 – 3.

direct testimony states: "In the tariffs filed to implement the rates proposed in this case, the tariff names of the rate plans have been aligned with these customer-facing names."[8] And what were those customer-facing names? The same names identified to the Commission itself in July 2020 and February 2021, and before that, to Staff and OPC in the June 2020 stakeholder meeting. Staff's afore-quoted misstatements should be disregarded.

Third, at pages 3 and 4 of their Initial Brief, Staff wrongly criticizes the Company customer education materials, incorrectly claiming: "For example, Ameren Missouri's website does not convey that the demand charge associated with the 'Ultimate Savers' rate schedule varies with kilowatt (kW) demand in any given month." That claim is incorrect. In fact, Ameren Missouri's website does convey that the Ultimate Savers demand charge varies with kW demand as shown in the excerpt below:[9]

ADVANCED RATE: More effort may be required for success on this rate.

How It Works
You can maximize your savings if you distribute your energy use throughout the day and avoid on-peak hours, when energy is most expensive. For example, stagger the use of major appliances, and schedule usage with smart devices and programmable appliances.

This rate has a demand charge, which means that each month, your hour of highest usage between 6am – 10pm will be charged at a higher per-kW rate (see details below).

Is this rate a good fit for you?
Do you want to closely monitor the way you use energy and focus on off-peak use? Are you able to stagger how you use energy to save even more? This rate offers a high opportunity to save if you are willing to change both when and how you use energy. Available January 1, 2021; you must have an upgraded AMI-enabled meter to qualify for this rate.

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[8] Id. at fn 2.
[9] Available as of January 4, 2021, under the "Ultimate Savers" tab, at: https://www.ameren.com/missouri/company/rate-options.

So, in addition to having a yellow highlighted note that "More effort may be required for success on this rate" for the advanced Ultimate Savers rate, the language clearly states: "This rate has a demand charge, which means that **each month**, your hour of highest usage between 6am – 10pm will be charged at a higher per-kW rate (see details below)."[10]

Moreover, in the Company's FAQs available through the Company's website, the following details are provided:[11]

What is a demand charge (part of the Ultimate Savers rate)?

A demand charge is calculated using the highest hour of energy usage between 6am and 10pm during your monthly billing cycle. The average kW of demand measured during that hour is multiplied by the demand charge rate to determine the charge added to the bill of customers on the Ultimate Savers rate. For example, if your highest hour of usage during November averages to 5 kW, you'd be charged a $14.50 (5 kW x $2.90/kW) demand charge in addition to your other charges. The demand charge rate changes seasonally, so in summer, the demand charge for the same situation would be $35.15 (5 kW x $7.03/kW).

Understanding Your Energy Use

Using the most energy-intensive appliances (such as heating/cooling, electrical vehicle chargers, pool pumps, hot tubs, clothes dryers and dishwashers) within the same hour will likely establish the demand charge. One way to lower your monthly demand charge is to stagger hours during which you use appliances, rather than using all your appliances within the same hour. For instance, programmable thermostats can be programmed to stagger heating/cooling, and some electrical vehicle chargers may be programmed to stagger charging times. The demand charge allows this rate to have the lowest off-peak energy rate of any plan, with the longest off-peak hours.

Therefore, the FAQs echo that the demand charge is calculated using the highest hour of energy usage between 6am and 10pm **in any given month**. Staff's criticism is unfounded.

Fourth, also on page 4 of Staff's Initial Brief, Staff inaccurately states: "Instead of explaining the relatively new concept of demand charges for residential customers, Ameren

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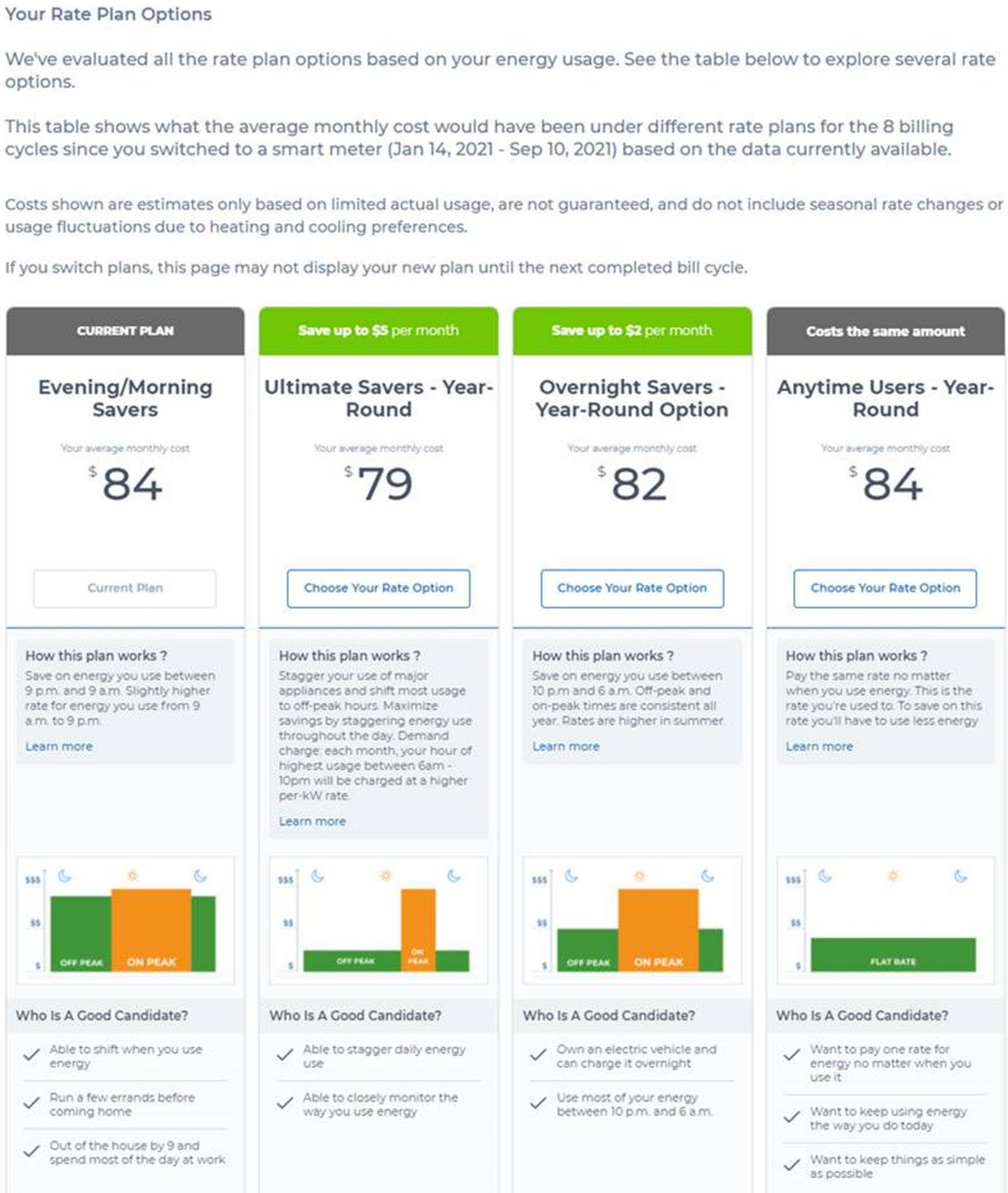
[10] Id., *emphasis added*.
[11] Available as of January 4, 2021, at: https://www.ameren.com/missouri/company/rate-options/faqs.

Missouri's bill comparison tool merely gives an estimate based on average demand, which can be misleading and result in surprisingly high bills." This is an inaccurate characterization of the bill comparison tool. Staff's claim appears to stem from a fundamental misunderstanding by Staff of how the bill comparison tool works. In Company witness Steven Wills' rebuttal testimony, Mr. Wills presented the Figure below, which shows a clip of the Rate Plan Comparison Online Tool:[12]

[12] File No. ER-2021-0240, Exhibit 18, Rebuttal Testimony of Steven Wills, at p. 48, Figure 1.



Your Rate Plan Options

We've evaluated all the rate plan options based on your energy usage. See the table below to explore several rate options.

This table shows what the average monthly cost would have been under different rate plans for the 8 billing cycles since you switched to a smart meter (Jan 14, 2021 - Sep 10, 2021) based on the data currently available.

Costs shown are estimates only based on limited actual usage, are not guaranteed, and do not include seasonal rate changes or usage fluctuations due to heating and cooling preferences.

If you switch plans, this page may not display your new plan until the next completed bill cycle.

CURRENT PLAN	Save up to $5 per month	Save up to $2 per month	Costs the same amount
Evening/Morning Savers	Ultimate Savers - Year-Round	Overnight Savers - Year-Round Option	Anytime Users - Year-Round
Your average monthly cost $84	Your average monthly cost $79	Your average monthly cost $82	Your average monthly cost $84
Current Plan	Choose Your Rate Option	Choose Your Rate Option	Choose Your Rate Option
How this plan works ? Save on energy you use between 9 p.m. and 9 a.m. Slightly higher rate for energy you use from 9 a.m. to 9 p.m. Learn more	How this plan works ? Stagger your use of major appliances and shift most usage to off-peak hours. Maximize savings by staggering energy use throughout the day. Demand charge: each month, your hour of highest usage between 6am - 10pm will be charged at a higher per-kW rate. Learn more	How this plan works ? Save on energy you use between 10 p.m and 6 a.m. Off-peak and on-peak times are consistent all year. Rates are higher in summer. Learn more	How this plan works ? Pay the same rate no matter when you use energy. This is the rate you're used to. To save on this rate you'll have to use less energy. Learn more
$$$ $$ $ OFF PEAK ON PEAK	$$$ $$ $ OFF PEAK ON PEAK	$$$ $$ $ OFF PEAK ON PEAK	$$$ $$ $ FLAT RATE
Who Is A Good Candidate?	Who Is A Good Candidate?	Who Is A Good Candidate?	Who Is A Good Candidate?
Able to shift when you use energy	Able to stagger daily energy use	Own an electric vehicle and can charge it overnight	Want to pay one rate for energy no matter when you use it
Run a few errands before coming home	Able to closely monitor the way you use energy	Use most of your energy between 10 p.m. and 6 a.m.	Want to keep using energy the way you do today
Out of the house by 9 and spend most of the day at work			Want to keep things as simple as possible

The bill comparison tool explicitly explains that the comparison shows "what the average monthly cost would have been under different rate plans for the [number of] billing cycles" since the customer switched to their smart meter. The tool does not use an average demand as Staff inaccurately asserts, but rather, it calculates the actual cost under the Ultimate Savers rate plan for each month, and the sum of monthly costs are divided by the number of months since the customer has been switched to their smart meter to arrive at an average monthly cost. It is the average monthly cost under the Ultimate Savers plan then that is compared to the average monthly cost under the other rate plans in the tool.

2. Staff downplays the potential for customer confusion that renaming will create.

At pages 5 and 6 of their Initial Brief, Staff continues to downplay the potential customer confusion to be created for the **hundreds of thousands** of Residential customers who have already progressed through the initial TOU education/engagement program and selected to remain on the new default Evening/Morning Savers rate plan, shifted back to the old Anytime Users plan, or selected one of the three advanced rate plans.[13] Staff's Initial Brief does not even address the timing for the proposed name change to be completed, so it is unclear how many more thousands of customers will have progressed through their initial TOU education/engagement journey by the time the renaming will have occurred, and correspondingly, when all the engagement materials will be revised, re-education plan for customer who have already progressed through the initial TOU journey will be developed and implemented, and Company employees who assist customers with rate plan questions will be trained again. The Company is very concerned that the potential customer confusion from renaming could significantly undermine or derail its TOU rollout, and recommends the Commission reject Staff's recommendation to order renaming of the plans at some unspecified point in the future.

[13] Ev. Hearing Transcript, at p. 298, ll. 7 – 21 & p. 294, l. 23 – p. 295, l. 17. As Mr. Wills explained during the December 9, 2021 evidentiary hearing, the most current information he had then was that 201,474 customers had migrated to and stayed on the Evening/Morning Savers rate plan, 29,732 customers had elected to return to the Anytime Users rate plan, and approximately 548 customers had selected one of the advanced rate plans, which is a total of 231,754 customers who have progressed through their initial TOU education/engagement journey.

3. Staff never presents any customer research or even any anecdotal information of any problem with the "Savers" naming approach, but seeks to incorrectly compare Ameren Missouri's TOU rate plans' rollout with the completely different Arizona Public Service Company ("APS") *forced* TOU migration experience to criticize the Company's research.

Sometimes what's not addressed by a party in a brief is especially telling: Staff still does not point to any customer research or even any anecdotal information suggesting customer confusion with the "Savers" naming convention. Why? Because there is none. Instead, Staff appears to incorrectly try to compare Ameren Missouri's TOU rate plan names with the APS forced TOU migration mess, and based on a comparison to APS that completely misses the mark, then states concern about potential confusion for customers.[14] More specifically, Staff notes that the third party hired to evaluate APS's customer education plan and implementation "… discussed the problems with APS's ToU implementation, including the lack of research support for APS's TOU rate schedule names."[15] As a starting point, the comparison of Ameren Missouri's TOU rate plans to APS' forced TOU migration plans is like comparing apples and avocados — it is most certainly not an "apples-to-apples" comparison. The Company explained in its Initial Brief that OPC witness Dr. Geoff Marke, who had provided the APS evaluation by Barbara R. Alexander in rebuttal testimony, had acknowledged there were multiple, important distinguishing factors between APS' mandatory TOU migration and Ameren Missouri's optional TOU rollout,[16] so those points won't be repeated here. But, overall, it's clear that the APS mandatory TOU migration was quite different, and the APS TOU naming issue is also distinct and has absolutely no relevance to Ameren Missouri's TOU rollout, which demonstrably has not suffered from any of the (perhaps self-inflicted) problems APS experienced.

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[14] Staff Initial Brief, at p. 6.
[15] Id.
[16] Ameren Missouri Initial Brief, at pp. 7 – 8.

Ms. Alexander's evaluation noted: "**Of particular concern is that APS renamed all its rate plans AFTER the Education Plan was submitted and has not conducted any customer research** on whether the 'SAVER' and 'PREMIER' rate names are understood by customers or that those names properly reflect the key attributes of the plan."[17] Therefore, Ms. Alexander appears concerned that APS submitted an education plan to the Arizona Commission that did not include the names, and the names were not selected based on customer research. Unlike APS' forced TOU migration, for Ameren Missouri's optional TOU rollout, Ameren Missouri was not required to file an education plan with the Commission, but presented at two open Agendas on its engagement plan, which included the names of the TOU rate plans.[18] Furthermore, during the Company's July 29, 2020 Agenda presentation on the TOU engagement plan, the Company summarized the customer research conducted and the insights gleaned therefrom.[19] Back in the May 2020 stakeholder meeting, the Company had provided quite a bit of detail regarding the research conducted, including sample questions from the four, 90-minute online listening sessions and the approximately 600 customer surveys conducted, initial learnings, and even customer

[17] File No. ER-2021-0240, Exhibit 403, Surrebuttal Testimony of Geoff Marke, Ph.D., Schedule GM-2, p. 9, at para. F, *emphasis added*.

[18] Ameren Missouri's "Advancing Time of Use Rates" Presentation at the Commission's July 29, 2020 public Agenda, which is available at: https://psc.mo.gov/CMSInternetData/Agenda%20Presentations/2020%20Presentations/7-29-20%20Ameren%20Missouri%20Advancing%20Time%20of%20Use%20Rates.pdf. Slide 8 explains the "lifestyle framing" design. *See also*, Ameren Missouri's "Advancing Time of Use Rates" Presentation presented at the Commission's February 24, 2021 public Agenda, which is available on the Commission's website at: https://psc.mo.gov/CMSInternetData/Agenda%20Presentations/2021%20Presentations/2-24-21%20Ameren%20Missouri%20Advancing%20TOU%20Rates%20Presentation.pdf. Slide 18 in the Appendix provides a nice summary of the TOU rate plans with their names and classification as either "Basic" or "Advanced." The Company also met with stakeholders on four occasions as required under the settlement in the Company's last electric rate case regarding the AMI and TOU engagement plan. File No. ER-2019-0335, *Corrected Non-Unanimous Stipulation and Agreement*, filed on February 28, 2020, at p. 10, para. 27(a)(iv)(4); and File No. ER-2019-0335, Status Reports on March, April, May, and June 2020 Meetings and Customer Education and Communication Plans, EFIS Item Nos. 363 (March), 371 (April), 376 (May), and 379 (June).

[19] Ameren Missouri's "Advancing Time of Use Rates" Presentation at the Commission's July 29, 2020 public Agenda, which is available at: https://psc.mo.gov/CMSInternetData/Agenda%20Presentations/2020%20Presentations/7-29-20%20Ameren%20Missouri%20Advancing%20Time%20of%20Use%20Rates.pdf, at Slide 6.

"verbatims."[20] The detail was included in the slide deck presented during the May 2020 stakeholder meeting, which was included with the Company's Status Report on the May 2020 stakeholder meeting filed in EFIS.

Thus, it is totally unreasonable for Staff to try to cast aspersions about the validity or scope of Ameren Missouri's customer research, when Staff (and all other stakeholders, the Commission, and any person with access to the Commission's EFIS database) has been presented with details of the customer research conducted and the Company received no questions; received no expressions of concern, regarding it prior to its implementation. Here again, what's **not** addressed by a party in a brief is especially telling: Staff never points to a data request they (or any party) propounded inquiring into the details regarding the customer research conducted by the Company, because none were propounded. Staff (as well as anyone with EFIS access) had details on the customer research for 10 months before the Company even filed its direct case in the above-captioned matter, and yet, now feigns unawareness of its scope or validity.[21] Staff's criticism of Ameren Missouri's research should be absolutely rejected and disregarded.

B. Reply to OPC Initial Brief

Ameren Missouri's Initial Brief addresses all the other TOU rate names changes proposed by OPC, but must herein oppose OPC's newly asserted recommendations regarding the Company's "Anytime Users" rate plan name. In its Initial Brief, OPC puts forth new, unfounded recommendations regarding the Company's Anytime Users rate plan for the first time ever, which are not even within the scope of the issue presented for hearing. The entirety of OPC's position on Issue 17A from its Position Statement is copied below:[22]

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[20] File No. ER-2019-0335, Status Report on May 2020 Meeting and Customer Education and Communication Plans, EFIS Item No. 376, Attachment 2, Slides 4 – 9.
[21] Staff Initial Brief, at pp. 6 – 7.
[22] File No. ER-2021-0240, EFIS Item No. 208, Public Counsel's Position Statement, at p. 1.

Issue 17. A. ***Should the Company be required to change the names for its TOU rate plans?***

Yes. Public Counsel supports the Staff's recommendation that Ameren rename its TOU rate plans. Titles such as "Ultimate Saver" could mislead a customer into choosing a rate plan based on the name and not on the impact that rate plan would have on the customer's bill. OPC's Position Statement does not address the Anytime Users rate, because it was not/is not at issue for hearing. Anytime Users is not a TOU rate plan, and is instead the traditional, flat rate plan. Therefore, Anytime Users was not at issue for determination at hearing. Yet, in OPC's Initial Brief, for the first time ever, OPC recommends that Ameren Missouri be ordered to reflect the "Anytime Users" marketing name on its tariffs and for the Company to be ordered to "monitor and immediately report any concerns that develop regarding Ameren's marketing names."[23] Besides being procedurally improper for going beyond the issue presented for hearing, OPC fails to cite to anything in the record about matching a marketing name with a tariff or reporting. The issue of potential reporting came up briefly during the evidentiary hearing, through questioning of OPC witness Dr. Marke by Commissioner Rupp. In response to Commissioner Rupp's questioning on whether there was anything that the Commission should direct the Company to do, Dr. Mark explained the following:

> A. That's a good question. We could monitor it, I mean, clearly. I think we will know relatively quickly if there is going to be a lot of customer confusion. If we have a lot of customers that are jumping off of rates or if they're filing complaints. To the Company, a mitigating effort might be something along the lines of having an updated report back to the Commission that looked at adoption rates and savings estimates.[24]

[23] OPC Initial Brief, at p. 13.
[24] Ev. Hearing Transcript, at p. 268, ll. 5 – 13. Dr. Marke had previously stated during the hearing: "I think Ameren has done a pretty good job with their marketing." Ev. Hearing Transcript, at p. 267, ll. 5 – 10.

The potential reporting about adoption rates and savings estimates described by Dr. Marke is much narrower than the ambiguous recommendation OPC now voices to "report any concerns that develop regarding Ameren's marketing names." OPC's new, unfounded, procedurally improper, and/or ambiguous recommendations regarding the Anything Users rate plan should be flatly denied.

II. Issue #22 – Class Cost of Service, Revenue Allocation, and Non-Residential Rate Design

To avoid restating the same arguments from its Initial Brief, the Company will only address four of the eight sub-issues that remain for Commission decision in this matter.

A. Response to Staff's Initial Brief on Rider B Credits, Sub-issues 22 I and 22 J (3):

The Company appreciates the clarification of Staff's positions regarding Rider B credits provided by Staff's Initial Brief. As Staff's Initial Brief makes clear, they are proposing no changes to Rider B at all if the Commission approves the across-the-board increase in rates supported by the Staff and the Company. At page 27 of Staff's Initial Brief, however, Staff continues to incorrectly suggest that the cost of customer-specific substations are not being appropriately allocated to the customer classes.[25] The Company's CCOSS appropriately allocated a significant amount of the total cost of all substation costs (14.8%) to primary customers, which include all Rider B customers, based on the driver of the substation equipment (demand the customers place on that portion of the system).[26] Be that as it may, Rider B billing determinants have nothing to do with the allocation of appropriate costs to these customers, so this point is merely a tangential one that should not impact the Commission's determination on these sub-issues.[27]

[25] Staff Initial Brief, at p. 27.
[26] File No. ER-2021-0240, Exhibit 18, Rebuttal Testimony of Steven Wills, at p. 24, l. 17 – p. 26, l. 8.
[27] Id., at p. 25, l. 22 – p. 26, l. 8.

B. Response to OPC's Initial Brief (adopted by CCM and LSEM) on proposal for less rate increase to be allocated to the Residential and Small General Service classes, Sub-issue 22C

OPC recommends that the "Commission should either allocate less than an equal percent share of Ameren [Missouri]'s revenue increase to the residential and small business customer classes or allocate Ameren [Missouri]'s revenue increase equally among the various rate classes…."[28] To support a less than equal percentage revenue increase, OPC appears to assert that Staff's Class Cost of Service Study ("CCOSS") supports a "variety of ranges, including a rate impact of 5% for the residential class and 7.1% for small general service."[29] OPC does not appear to acknowledge the effect of capping the rate increase allocated to the Residential and Small General Service classes in its Initial Brief though: the Residential and SGS classes would move farther from their class cost of service as calculated under Ameren Missouri's CCOSS, and result in a rate increase over 15% for other classes.[30] And, relatedly, it is unclear where in Staff's CCOSS there would be any support for OPC's proposed shifting of cost recovery to the other classes (Large General Service or "LGS," Small Primary Service or "SPS," and Large Primary Service or "LPS"). The Company continues to recommend equal percent allocation of the rate increase to the various classes.

While the Company agrees with OPC that rate increase allocations should be rooted fundamentally in cost of service principles and agrees that rate design factors such as avoiding customer rate shock should be evaluated, OPC (and as adopted by CCM and LSEM) appears to go way beyond that by incorrectly suggesting the Commission base revenue allocation decisions on addressing current economic circumstances. The *First Stipulation* entered into between the parties

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[28] OPC Initial Brief, at p. 1.
[29] Id., at p. 7.
[30] Ev. Hearing Transcript, at p. 265, l. 9 – p. 266, l. 3.

in this rate review case specially provides for new and expanded funding for low-income programs.[31] Congress has also enacted economic programs related to utility bills in response to current economic circumstances.[32] Such special programs as contemplated by the *First Stipulation* and enacted by Congress are superior and more appropriate mechanisms to address current economic circumstances, which may (hopefully will) improve during the timeframe that the rates to be set in this matter will be in effect.

C. Response to MECG's Initial Brief to correct one point on Sub-Issue 22B

Sub-issue 22B relates to the classification and allocation of the non-fuel, non-labor components of production, operation and maintenance ("O&M") expense among customer classes within a CCOSS. At page 19 of MECG's Initial Brief, MECG cites to MIEC witness Maurice Brubaker's direct testimony regarding Mr. Brubaker's belief that classifying all generation O&M expense other than fuel and purchased power as a fixed cost is the most appropriate approach, because the vast majority of such costs do not vary in any appreciable way with the number of kWh generated.[33] However, then MECG goes on to incorrectly state: "Noticeably, despite the opportunity to rebut this assertion in its surrebuttal testimony, Ameren never responded."[34] MECG then uses MIEC's allegedly "unrebutted assertion" to justify the Commission to allocate the costs of the same basis as the underlying units.[35]

Ameren Missouri witness Thomas Hickman, in fact, did respond to Mr. Brubaker's direct recommendation through his rebuttal testimony.[36] Admittedly, Mr. Hickman's response was

[31] The first *Unanimous Stipulation and Agreement* was filed in this case on November 24, 2021 ("*First Electric Stipulation*"), and resolved a majority of issues for the electric case, including the revenue requirement issues and Residential rate design issues.
[32] American Rescue Plan Act of 2021, Public Law No. 117-2 (March 11, 2021).
[33] MECG Initial Brief, at p. 19.
[34] Id.
[35] Id.
[36] File No. ER-2021-0240, Exhibit 31, Rebuttal Testimony of Thomas Hickman, p. 23, l. 10 – p. 24, l. 9.

concise – covering less than a page of text. But, Mr. Hickman rebutted Mr. Brubaker's recommendation by stating multiple reasons why Mr. Brubaker's approach was not justified, and concluded: "… I continue to support the Company's classification of these costs."[37] In summary, MIEC's assertion was indeed rebutted, and non-fuel, non-labor components of production O&M expense should be classified as variable and allocated based on the megawatt-hours required at the generators to provide service to each respective class, a/k/a "production energy allocation."[38]

Respectfully submitted,

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[37] Id., at p. 24, ll. 8 – 9.
[38] File No. ER-2021-0240, Exhibit 30, Direct Testimony of Thomas Hickman, p. 2, l. 21 – p. 21, l. 2.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail, or First-Class United States Postal Mail, postage prepaid, on this 7th day of January 2022, to all counsel of record.

/s/ *Jermaine Grubbs*
Jermaine Grubbs