BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of a Workshop Docket to	**)**	
Explore the Ratemaking Process.	**)**	**Case No. AW-2019-0127**

AMEREN MISSOURI'S INITIAL COMMENTS

COMES NOW Union Electric Company d/b/a Ameren Missouri ("Company" or "Ameren Missouri"), and in response to the Staff's November 29, 2018 Request for Comments on a Staff Proposed Draft Rule (the "Staff Draft") circulated by the Staff on November 27, 2018 provides the following initial comments:

1. As a preliminary matter, Ameren Missouri appreciates any effort to improve the rate case process so that it is more efficient, fair, and can result in a timely resetting of rates when circumstances have changed since rates were last set. It is in all stakeholders' interest for utility rates to reflect the expense, revenue, and rate base levels at the utility so that rates are, to the extent practical, neither too high nor too low on an ongoing basis.

2. Consistent with Ameren Missouri's view that rates should be as reflective of the utility's ongoing revenue requirement as possible at any given time, over the past approximately 8-10 years Ameren Missouri has been fully engaged in at least two prior workshops or discussions at the Commission – and at the General Assembly – to identify and implement ways to improve the rate case process.

3. The Staff Draft reflects some concepts that, with some modification and clarification, could result in a better and more timely reflection of changes to a utility's revenue requirement and the rates based on it. As addressed further below, however, the Staff Draft, even with improvements, does not necessarily get to perhaps the fundamental rate case improvement opportunity in Missouri, that is, modification and improvement of what is an inefficient and illogical process involving unnecessary rounds of testimony that inject undue

complexity, confusion, and delay into the resolution of rate cases. In this regard, Ameren Missouri generally agrees with the concerns and suggestions expressed by Missouri-American Water Company ("MAWC") in its November 28, 2018 Comments filed in this docket. Ameren Missouri has itself expressed similar concerns over the past several years. Putting aside that issue for now, Ameren Missouri will address the specifics of the Staff Draft. The following comments on the Staff Draft should not be taken as an endorsement of taking the approach outlined in the Staff Draft in lieu of making other improvements to the rate case process, such as addressing the unnecessary rounds of testimony problem referenced above.

4. Subsection (1) Definitions. No comment.

5. Subsection (2). Ameren Missouri generally supports the concept of providing an opportunity to utilize an expedited rate case process which involves providing information at an earlier stage of the process. However, there are questions and issues raised by the Staff Draft that need to be addressed more specifically before Ameren Missouri could express unconditional support for the concept. Moreover, opting-into an expedited procedure should be at the utility's discretion, but the Commission should also have the discretion to reject the opt-in and to process the case under the timeline reflected in Section 393.150 depending on the schedule proposed by the utility when it seeks to opt-in. Ameren Missouri will provide more specific suggestions on how to implement that concept below.

6. Subsection (3). The pre-case-filing notice provided for by 4 CSR 240-4.017(1) can be filed as much as 180 days prior to the filing of the rate case. While providing the requested summaries is a reasonable requirement, the language should be modified by adding the words "then-known" before both instances of the word "reason(s)." While a utility planning to file a rate increase request will have a reasonable understanding of the likely and main drivers of

the rate increase several months before the case is filed, those drivers (i.e., the reasons) become much clearer and better known as the revenue requirement is put together. Given past efforts by some parties to make aggressive, procedurally-based arguments that rules have not been properly followed (and to then claim that the relief requested in the case cannot be provided) Ameren Missouri does not want to get caught in a situation where a party claims that it failed to provide one of "the reason(s)" for filling the case. There are also specific provisions in 4 CSR 240-4.017 allowing for a waiver of the notice requirement. For clarity, this subsection should also acknowledge the possibility of a waiver, which can be accomplished by adding the following phrase at the end of the first sentence: ", unless the notice requirement is waived by the Commission for good cause shown as provided for by 4 CSR 240-4.017(1)(D)."[1]

7. Subsection (4). This subsection must also recognize that the notice requirement in 4 CSR 240-4.017(1) could be waived, which can be accomplished by adding to the beginning the following: "Unless the notice requirement is waived by the Commission for good cause shown as provided for by 4 CSR 240-4.017(1)(D), at least. . .." The Company disagrees with the concept of making the rate schedules effective exactly 240 days after they are filed and believes that it may be contrary to the file and suspend process reflected in Sections 393.140 and 393.150. The rule should provide that the rate schedules be filed with a 30-day effective date (per Section 393.140) and that the Commission will then suspend the rate schedules for a period of 210 additional days. This will have the effect of setting the operation of law date at 240 days, as intended, but will leave undisturbed the longstanding process and the law that has developed

[1] These Comments will not provide a comprehensive mark-up of proposed changes to the Staff Draft but where, as here, a simple change can be made to address the comment the Company will suggest the change.

under it relating to the Commission's rate case decisions and the filing and processing of compliance tariffs, etc.

With respect to items required by sub-subsection (A) 1 – 8, several of the phrases are unclear and should be clarified and made more specific to again avoid the situation where a party claims a technical rule violation and, at least as importantly, so that the utility can provide what it is the Staff is actually looking for. It is not clear what "long-range" means, nor is it clear what a "capital and operating plan" is (the phrase "operating plan" is especially unclear). In the case of the Company, it can provide a five-year forecast of its then-planned capital expenditures. With respect to "budgets" for the next three years, the Company only budgets one year out, but could provide a forecast for future years two and three. The phrase "monthly financial and operating reports" is similarly unclear.

Regarding sub-subsection (B), given the highly sensitive nature of board materials and consistent with longstanding practice with the Staff, any rule should provide that board minutes and materials are to be reviewed at the utility's headquarters. Moreover, the Office of the Public Counsel ("OPC") should not (outside of the discovery process) be afforded this review. OPC is a statutory party representing the general public before the Commission, just as other non-Staff parties represent their clients. OPC is not a utility regulator but instead as an advocate, like other parties before the Commission.

As noted, sub-subsection (E) should be deleted or modified to reflect the additional 210-day suspension.

8. Subsections (6) – (9). As noted earlier, whether to expedite its rate case should be up to the utility because, depending on the timing of cost or revenue changes that may be driving the rate case and the schedule and process adopted in each case, an expedited rate case could in

fact not be in the utility's or others' interests because an expedited process may do a poorer job of determining a revenue requirement reflective of the utility's revenue requirement on a future, ongoing basis. Ameren Missouri understands, however, that whether an expedited process is appropriate could depend on the relief the utility seeks in each case. Consequently, when filing its rate schedules to initiate the case, the utility should also file a proposed procedural schedule that specifies a proposed date for an initial pre-hearing conference within 14 days of the intervention application deadline provided for by subsection (5) of the Staff Draft. The schedule should also propose dates for pre-filing testimony, a date through which the case would be updated or trued-up (and the scope of the update or true-up), proposed evidentiary hearing dates, and a proposed briefing schedule. The proposed schedule should also provide for a shortened time to object/notify of the need for more time and to respond to data requests, but the five and ten calendar day periods provided for by subsection (9) of the Staff Draft are too short (in its last electric rate case, the Company responded to more than 3,000 individual questions (data requests including each sub-part or sub-question)). While challenging, five business days to object/notify of the need for more time to respond and 10 business days to respond would be appropriate for an expedited case.

A rule should further provide that the Commission will set an initial pre-hearing conference within 14 days of the intervention application deadline and that Staff and OPC and any party timely seeking intervention can file comments on or alternatives to the utility's proposed procedural schedule up to two days before the date of the pre-hearing conference. A rule should further provide that the utility may withdraw its request for an expedited general rate case within 10 days after the Commission adopts a procedural schedule, in which event the Commission would then further suspend the rate schedules for the maximum suspension period

allowed by Section 393.150. Finally, in that event the rule should provide for the parties, if agreement can be reached, to file a new procedural schedule and for one to be adopted by the Commission to process the case over the full suspension period, unless otherwise agreed by the parties.

The foregoing process would mean that even if the expedited rate case request is withdrawn, the information provided earlier in the process as part of the initial expedited process request will still be in the parties' hands to give them a head start on their review in the case. This could allow a somewhat shorter schedule than one covering the maximum suspension period, even if that schedule is longer than the 240-day suspension period under the expedited process.

9. Subsection (10). The Company needs additional clarification on the intent of this provision and what is meant by "update the financial information." Along similar lines, while Staff indicted that it was contemplating the ability to utilize a true-up in an expedited proceeding, any rule needs to outline the process in more detail.

10. Subsection (11). This subsection is unnecessary given that the rate schedules would be suspended for 240 days and the Report and Order would, consistent with current practice, need to be issued to allow a reasonable time to seek rehearing (presumptively 10 days) and to allow for time to prepare, file, and obtain approval of compliance tariffs.

11. Subsection (12). Ameren Missouri supports a sensible means to obtain interim (subject to refund) rate relief pending completion of a rate case and it is logical that if interim rates can be obtained without meeting the Commission-made "emergency" standard the Commission has traditionally employed, that the need to "expedite" a rate case is significantly

lessened.[2] Interim rates would fairly address the inherent lag between when revenue requirements change and when, as a practical matter, permanent rates can be reset. Since the interim rates are refundable in the end, the rates will be set at the "right" level without harming customers or the utility. And by applying the utility's weighted average cost of capital to any refund (even though the interim rates would be in place for the short-term), customers would be fully compensated – and more – if the permanent rates end up being less than the interim rates.

However, and particularly given the generous application of the weighted average cost of capital to any negative difference between permanent and interim rates, it would be grossly unfair to impose an arbitrary, 25% penalty on the utility. There can be a myriad of reasons why a final revenue requirement in a rate case is less (by whatever percentage) than the initial request for reasons that have nothing to do with any over-reach by the utility. For example, material rate base additions that were expected to be in service by a true-up cutoff date could not be placed in service by that time, or fuel or purchased power costs (due to a myriad of factors that may be entirely outside the utility's control) could be lower than thought; any number of other events or circumstances could arise that cause a material difference between the initial rate request and the final revenue requirement approved by the Commission.

12. Additional Opportunities to Improve the Process. As noted earlier, a key reason why the traditional processing of rate cases in Missouri takes the full 11-month suspension period provided for by Section 393.150 is because of the illogical pre-filed testimony process that has been employed. When a utility seeks a rate increase – as other parties often remind – it

[2] The Company won't engage in a debate about whether the emergency standard is somehow required, as some consumer groups would likely argue. The Commission has specifically ruled otherwise. *Report and Order Regarding Interim Rates*, File No. ER-2010-0036, pp. 9-10 ("However, the decision does not limit the Commission's "broad discretion" by requiring the Commission to use an emergency standard when considering an interim rate adjustment."). The Staff Draft implicitly acknowledges that there is no such standard as a matter of law.

is the utility that bears the burden of establishing that the new revenue requirement and rates it seeks are just and reasonable. In virtually every other case at the Commission and in ordinary civil practice, the party with the burden of proof puts on its case-in-chief, the other party(ies) rebut the case-in-chief, and the party with the burden closes the evidence. But at the Commission, the historical process has been as follows: 1. The utility's direct case filing; 2. Other parties "direct" case filing; 3. Other parties rate design direct case filing; 4. Rebuttal testimony, but rebutting different cases (the utility rebutting the other parties "direct" and the other parties rebutting the utility's direct, which was filed when the case started); and 5. Surrebuttal/cross-surrebuttal testimony.

It has never made sense to the Company why what is now other parties' "direct" testimony is not simply their rebuttal, which would then logically be followed by utility surrebuttal (and perhaps other party cross-surrebuttal *so long as* it is limited to disagreement with another parties' rebuttal; cross-surrebuttal should not be an opportunity for Party A to rebut and attack the utility's direct case by bolstering Party B's rebuttal since Party A had its chance when it filed its own rebuttal). Such a process would typically shave about three weeks from the schedule. That time reduction, coupled with a reasonable utilization of more up-front information (such as the upfront information the Staff Draft requires in subsections (4)(A) and (B)), and perhaps somewhat shorter data request response periods (as outlined by the Company earlier) could then lead to saving a few more weeks between the utility's filing and when other parties file rebuttal testimony. But regardless of saving time, a case-in-chief, rebuttal, surrebuttal process is more logical, fair, and orderly. It would also obviate the problem of there, in effect, being two different "direct" cases going on simultaneously even though only one party has the burden of proof. Such a process appears to the Company to be absolutely essential to making the

expedited process the Staff Draft proposes work and it should therefore be reflected in any rule providing for an expedited process, together with the other changes suggested by Ameren Missouri in these initial comments. A sample timeline/schedule for an expedited proceeding is attached hereto as Exhibit A.

13. As noted, the Company appreciates the Staff's effort to improve the rate case process and there are some good concepts in the Staff Draft that with further clarification and some modification could indeed improve that process. The Company understands that the Staff is going to consider the Company's and other comments and then determine the next steps for discussion of the Staff Draft, as it may be modified. The Company looks forward to that process.[3]

[3] Given that this is a workshop docket and not a rulemaking, it should be noted that the Company may have other or additional comments on the Staff Draft, as it currently exists, or on changes to it insofar as these comments are not as comprehensive as might be expected in a formal rulemaking proceeding.

Respectfully submitted,

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EXHIBIT A

Sample Expedited Rate Case Timeline

Day (60)	Utility files 4 CSR 240-4.017 notice and conditional notice of election of election of expedited process, including summary or reasons/summary explanation (as then known) of drivers of rate increase	With clarification of what is sought, the Company would be open to considering providing the kind of information outlined in subsection (4)(A) 3 – 8 at this time.
Day 0	Rate schedules and items outlined in subsection (4)(A) 1-2 provided, and arrangements for Staff to review board materials made, along with subsection (4)(D) information, and a proposed schedule, including proposed early pre-hearing conference between days 21 and 35.	
Day O to any discovery cut-off date	Data request objections/notifications of need for more time within 5 business days and responses within 10 business days.	
Day 1	Commission suspends rate schedules for 210 additional days.	
Day 20	Intervention Period closes	
Day 21-35	Early pre-hearing conference is held	Responses to utility procedural schedule due 2 days prior to conference.
Day 21 but no later than Day 50	Procedural Schedule adopted by Commission	
Within 10 days after adoption of Procedural Schedule	Utility may withdraw expedited case request	
As soon as possible thereafter	A new Procedural Schedule is adopted.	
Day 90	Other parties' rebuttal testimony due	
Last day of third calendar month occurring after Day 0	Update/True-up cutoff date; true-up data (only updated data; no methodology or position change) provided 30 days later.	E.g., if case is filed July 1, true-up cutoff date is September 30; true-up data would be provided by October 30.

Day 120	Company surrebuttal and other party cross-surrebuttal in disagreement with rebuttal due	
Day 127	True-up direct testimony filed	
Day 135	True-up rebuttal testimony filed	
Day 140	True-up surrebuttal testimony filed	
Day 120 – 150	Position statements, etc. filed	
Day 140 – 160	Evidentiary hearing (may be less than entire period)	Will include any true-up disputes
Day 185	Initial briefs	
Day 195	Reply briefs	
Day 215	Commission Report and Order	
Day 225	Compliance tariffs filed	
Day 240	Operation of Law date	