

**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 Annual Revenues for) File No. GR-2019-0077
Natural Gas Service.)

**AMEREN MISSOURI'S MOTION TO STRIKE
STAFF'S DEPRECIATION STUDY AND CORRESPONDING TESTIMONY**

COMES NOW Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri" or "the Company") and for its Motion to Strike Staff's Depreciation Study and Corresponding Testimony states as follows:

1. As noted by Ameren Missouri witness Tom Byrne in rebuttal testimony, Staff's reliance on placeholders in Staff's Cost of Service Report violates the Commission's Rules of Practice and Procedure.¹ As Mr. Byrne specially noted, Staff's Report's placeholder for a potential depreciation study to be performed by and presented in rebuttal by Staff is "particularly concerning."²

2. Staff's Cost of Service Report ("Staff Report") states: "Staff will use all Ameren Missouri proposed depreciation rates until Staff can perform a depreciation study of its own. Staff will amend the depreciation schedule as necessary in Staff's rebuttal testimony."³ There was no depreciation study or proposal in the Staff Report.

3. In Staff witness David Buttig's rebuttal testimony, Mr. Buttig explains why Staff's depreciation study and position was not included in the Staff Report as follows: "Staff submitted data requests on March 08, 2019 to collect the necessary data to run a depreciation study but did not receive the data until April 11, 2019 when Staff's direct testimony was due April 19, 2019.

¹ File No. GR-2019-0077, Byrne Rebuttal, at section II.

² Byrne Rebuttal, at page 5, line 11.

³ Staff Report, at page 84.

The due date for the data requests was March 28, 2019. Staff noted in its direct report that its position would be updated later."⁴

4. Mr. Buttig, however, omits the following important context.

a. Staff was provided Ameren Missouri's current depreciation study in 2014.

This depreciation study covered gas plant through December 31, 2014.

b. The Company submitted testimony in support of its depreciation study with its direct case in December of 2018.

c. Staff issued no data requests related to depreciation for three months after Ameren Missouri filed its rate case.

d. It was not until three months later, on March 8, 2019, Staff issued its first data request ("DR"), MPSC 238, regarding depreciation files the Company used in conducting its 2014 depreciation study. The Company's response to DR MPSC 238 was timely provided to Staff on March 28, 2019.

d. On March 8, 2019, Staff also issued DRs MPSC 239 and 240, which requested data used by the Company as well as "all service life data available through December 31, 2018." The Company therefore had to compile the data for years 2015 through 2018 in order to respond to the second parts of DRs MPSC 239 and 240. The Company provided its responses to DRs MPSC 239 and 240 on April 11, 2019.

e. Staff did not contact Ameren Missouri or take any other action to inquire about the status of the data request answers until April 10, 2019.

5. Furthermore, while Mr. Buttig filed rebuttal testimony on June 7, 2019, generally describing his methodology, to date, he has not provided any workpapers "showing his work" for

⁴ Buttig Rebuttal, at page 1, line 23 through page 2, line 6.

Schedule DTB-r1 to allow the Company a reasonable opportunity to evaluate his depreciation study. Counsel for Staff has indicated that Mr. Buttig has no workpapers associated with his testimony. Mr. Buttig should have provided workpapers to support his newly presented depreciation study summarized in Schedule DTB-r1.

6. Filing this study in rebuttal is inappropriate. 4 CSR 240-2.130(7)(A) states: "Direct testimony shall include all testimony and exhibits asserting and explaining that party's entire case-in-chief." The purpose of this rule is twofold. First, the rule facilitates the Commission's orderly processing of cases. Since a party's entire case-in-chief must be presented in direct testimony, a complete responsive case can (and must) be presented in other parties' rebuttal testimony. If the rule did not exist, parties could present their case-in-chief in multiple filings spread out over time, and then other parties would have to respond in multiple separate filings, creating a disorderly record that would be difficult for the Commission to manage and evaluate. The second purpose of the rule is to protect the parties to Commission proceedings from the unfairness that would result if other parties were able to present their case-in-chief on a piecemeal basis. Aside from the inherent unfairness in requiring parties to respond in multiple filings, if there were no rule, parties would have an incentive to "sandbag" by holding key components of their case-in-chief until later in the proceeding to limit opponents' ability to engage in discovery and formulate responsive testimony. Both of these are important policy considerations that support adherence to the Commission's rule.

7. The Commission has recognized that parties proposing disallowances in rate cases must make their cases-in-chief in their direct testimony. Here are two examples:

a. Missouri Gas Energy's 2004 rate case,⁵ where a Staff witness withheld the substance of his position from both his direct and rebuttal testimonies and then tried to present that substance in surrebuttal; and

b. The Company's 2011 electric rate case,⁶ where a Staff witness proposed a disallowance of a portion of the cost of the Company's Sioux scrubbers based on a claim of imprudence that Staff did not make in its direct case.

8. Staff did not present its full case regarding depreciation in its case-in-chief, and therefore did not comply with the Commission rule by presenting for the first time in rebuttal a new depreciation study covering a different timeframe than presented by the Company's depreciation study.

9. Surrebuttal testimony is due July 10, 2019. Thus, the Company has only a month to review and respond to Staff's new depreciation study, which is not even supported by workpapers, in contrast to the over four years that Staff has had to review and respond to the Company's 2014 depreciation study. This is fundamentally unfair and the late addition of the adjustments should be rejected by the Commission.

10. In order to prevent such unfairness to the Company, the Company seeks a ruling on this Motion from the Commission as soon as practicable and in advance of the surrebuttal testimony deadline. The Company asks the Commission to order the following schedule for the processing of this Motion to Strike:

- a. Staff to respond to this Motion to Strike by June 20, 2019;
- b. Ameren Missouri to file any reply to Staff's response on June 21, 2019;

⁵ In re Missouri Gas Energy, Order Regarding Midwest Gas Users' Assn's Motion to Strike a Portion of the Testimony of Daniel I. Beck, 2004 WL 1909705 (Mo.P.S.C.), File No. GR-2004-0209 (July 22, 2004).

⁶ In re Union Electric Co., Order Granting Ameren Missouri's Motion to Strike a Portion of David Murray's Surrebuttal Testimony, 2011 WL 1739878 (Mo.P.S.C.), File No. ER-2011-0028 (April 27, 2011).

and

c. The Motion to Strike be addressed at the Commission's June 24, 2019 Agenda.

WHEREFORE, Ameren Missouri respectfully requests that Staff's depreciation study and the entirety of the corresponding rebuttal testimony of Mr. Buttig be stricken, and the Commission rule on this Motion to Strike in advance of the surrebuttal testimony deadline on the Company's proposed schedule.

Respectfully submitted,

/s/ Jermaine Grubbs

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing filing was served, via e-mail, on counsel for the Missouri Public Service Commission Staff and the Office of the Public Counsel this 14th day of June, 2019.

/s/ Jermaine Grubbs

Jermaine Grubbs