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MISSOURI PUBLIC SERVICE COMMISSION

FILE NO. GR-2021-0241

REBUTTAL TESTIMONY

OF

MITCHELL LANSFORD

ON

BEHALF OF

UNION ELECTRIC COMPANY

D/B/A AMEREN MISSOURI

St. Louis, Missouri
October, 2021

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OF

MITCHELL LANSFORD

FILE NO. GR-2021-0241

I. INTRODUCTION

Q. Please state your name and business address.

A. My name is Mitchell Lansford. My business address is One Ameren Plaza, 1901 Chouteau Ave., St. Louis, Missouri.

Q. Are you the same Mitchell Lansford that submitted direct testimony in this case?

A. Yes, I am.

Q. To what testimony or issues are you responding?

A. I am responding to the following issues: (1) non-labor distribution maintenance (Staff witness Paul Amenthor), (2) COVID 19 pandemic costs (Staff witness Kimberly K. Bolin), (3) short-term incentive compensation (Staff witness Jason Kunst), (4) sales and use tax audit (Staff witness Kunst), (5) non-qualified pension expense (Staff witness Amenthor), (6) exceptional performance bonuses (Staff witness Kunst), (7) board of directors expense (Staff witness Jane Dhority), (8) allocation factors (Staff witness Bolin), (9) Bank of America lease-related expense, (10) membership dues (Staff witness Dhority), (11) AGA dues related to lobbying (Staff witness Dhority), (12) Miscellaneous Expenses (Staff witness Dhority), (13) Company Owned Life Insurance (Staff witness Bolin), (14) depreciation charged to O&M expense (Staff witness Dhority), (15) convenience charges (Staff witness Dhority), (16) pension & OPEB tracker (Staff witness Amenthor), (17) disconnect/reconnect revenue (Staff witness

Kunst), (18) late fee revenue (Staff witness Kunst), (19) cash working capital (Staff witness Dhority), (20) low income weatherization (Staff witness Kunst), (21) rents and lease expense (Staff witness Dhority), and (22) property tax tracker (Staff witness Kunst).

II. NON-LABOR DISTRIBUTION MAINTENANCE

Q. Staff proposed a normalization of non-labor distribution maintenance using a three-year average. Does the Company agree with this adjustment?

A. No. While it is appropriate to normalize an expense at times, this is not one of them. Staff has proposed this adjustment because, in Staff's opinion, distribution maintenance appears to fluctuate over time. However, the fluctuations experienced are not significant as compared to the Company's overall revenue requirement. Non-labor distribution maintenance costs were $991,338 in 2020. Staff's proposed adjustment reduces the revenue requirement by $41,211 or less than 0.05% of the Company's revenue requirement (less than 5% below the test year non-labor distribution maintenance level). Test year levels cannot be abnormal if such a small adjustment would otherwise be made in order to produce a normal level of costs. Further, the Company's forecasted non-labor operations and maintenance expense for the next five years makes it clear that the Company is planning to spend a consistent amount on non-labor distribution maintenance in the future. If Staff's proposed adjustment were accepted, the allowed level of expense would not be sufficient to cover ongoing and necessary maintenance costs.

Q. What is driving increased non-labor distribution maintenance costs?

A. The non-labor distribution maintenance cost increase in the next five years is directly related to legacy cross-bore and valve maintenance programs implemented to enhance the safe operation of the gas system. The cross-bore program is a safety program where areas with high risk for sewer cross-bores are identified and inspected for cross-bores, and where cross-bores are found they are repaired. The valve maintenance program was initiated to confirm the location, accessibility, and operability of all valves in the system. Common valves will be inspected and operated on a periodic basis to ensure the integrity of the system and improve emergency operations.

III. COVID 19 PANDEMIC COSTS

Q. Staff made an adjustment to normalize costs impacted by the COVID 19 Pandemic. Does the Company agree with these adjustments?

A. No. Staff's normalization adjustments reflect a return to pre-pandemic cost levels for exposure risk mitigation, personal protective equipment, and other costs, while inconsistently also assuming that we will not return to normal, pre-pandemic conditions with respect to pandemic-related cost savings experienced due to reduced travel and training.

Q. The Company made an adjustment in its direct case to remove the impact of all costs and cost savings directly related to the pandemic, and identified in File No. GU-2021-0112, from the test year. Does such an adjustment remain appropriate?

A. No. At the time of the Company's direct testimony, COVID 19 vaccines were beginning to be administered and a return to "normal" business practices seemed possible and, in fact, likely. Since then, the COVID 19 Delta variant has caused significantly more infections than expected while vaccination adoption rates have been lower than targeted by the federal government, and those factors have resulted in the

Company pausing its return to facilities plan, a continuation of exposure risk mitigation practices, and a continuation of limiting business travel.

Q. Given present information, what adjustment should be made related to costs impacted by the pandemic?

A. Significant uncertainty remains in terms of when a return to normal conditions will occur. Given this uncertainty, a parsing of the data to determine exactly what will occur or is likely to occur in the future is impossible. So, given this uncertainty, the most accurate approach is to use the most recent data we have, meaning the Commission should require that the significant cost categories giving rise to the deferral ordered in File No. GU-2021-0112 be trued-up to reflect the cost levels from the 12-months ended September 30, 2021. This period does not include the initial reaction to the pandemic in the second quarter of 2020, where cost levels were at their highest, but does capture the ongoing effects of the pandemic. As a result, test year expenses should be reduced by $143,612 based on information through the 12-months ended August 31, 2021. Finally, this amount should be trued-up through September 30, 2021 once the information becomes available.

Q. Does the Company agree with Staff's quantification of the deferral required in File No. GU-2021-0112?

A. Yes.

Q. Staff recommends recovery of the deferral over five years. Does the Company agree with this recovery period?

A. No. This deferral relates to activity from a one year and one month period and represents less than 0.3% of the Company's revenue requirement if it were recovered in just one year. While it is likely that rates set in this case will be in effect more than just one year, clearly it would not be burdensome to customers to recover this cost over a three-year period, as proposed by the Company. Further, Staff's longer amortization period is even less appropriate given that Staff has not proposed that the Company be compensated for its carrying costs during the amortization period.

IV. SHORT-TERM INCENTIVE COMPENSATION

Q. Staff reduced short-term incentive compensation expense by an amount tied to Ameren's earnings per share objectives. Does the Company agree with this adjustment?

A. No. First, Staff did not reflect the incentive compensation payout occurring after the test year but before the true-up date in its adjustment. Consistent with past Ameren Missouri rate review cases and as indicated in the procedural schedule, short-term incentive compensation should be trued-up when payments are made subsequent to the end of the test year but prior to the true-up date. Short-term incentive compensation payments were made in March 2021 in the amounts of $34,493,606 at Ameren Missouri and $31,172,922 at Ameren Services. Further, Staff failed to consider the current short-term incentive compensation arrangement in calculating the portion of the payout that relates to Ameren's earnings per share objectives. The Company has been reducing this impact over time to increase employee incentives in other areas, including customer satisfaction and diversity.[1] While payments made in 2021 reflected that 75% of the short-term incentive for officers

[1] While the Staff report indicates 80% of officer short-term incentive compensation is tied to earnings, its work papers and adjustment erroneously uses 90%. While 80% is incorrect for the reasons discussed, this error overstated Staff's adjustment by $22,020, even if 80% had been accurate.

was tied to Ameren's earnings per share, the plan that will be in effect once rates are reset in this case only ties 70% of the payout to earnings per share. Consequently, the percentage that reflects the plan that will be in effect should be used. Using the 70% earnings per share based percentage and applying it to the March payouts results in a reduction to test year O&M of $91,923. Related reductions, after consideration of the appropriate percentage of incentives tied to earnings per share by year (75% in 2020 and 70% in 2021), should be made to plant in service based on capitalization through the true-up date.

V. SALES AND USE TAX AUDIT

Q. Staff removed sales and use tax expenses identified by Department of Revenue ("DOR") audit from its revenue requirement. Does the Company agree with this adjustment?

A. No. Staff's basis for removing these costs from the revenue requirement is that they are non-recurring. That is not true. Ameren Missouri's sales and use tax expense is regularly audited by the DOR. In addition to the sales and use tax audit affecting the test year, the DOR concluded their most recent prior sales and use tax audit in 2017, covering a period from 2012 to 2014. Whether and to what extent audit findings will result in incremental sales and use tax expense cannot be determined in advance of audit assessments. It is in the best interest of Ameren Missouri and its customers to pay only the minimum required tax owed. In instances where judgment or interpretation must be applied in calculating this amount, clarity is often provided via audit results or further via appeal of audit results. There is no reason to believe the DOR will stop auditing a large sales and use taxpayer like Ameren Missouri or that no further assessments will result from future audits. Further, accepting Staff's position would provide a disincentive for the Company to continue to seek to pay only the minimum amount owed.

VI. NON-QUALIFIED PENSION EXPENSE

Q. Please describe Staff's adjustment to non-qualified pension costs?

A. Staff has proposed to normalize non-qualified pension costs by including a five-year average of lump sum payments and annuity payments made during the test year.

Q. Does the Company agree with the proposed adjustment?

A. No. The *qualified* pension costs are accounted for and included in the revenue requirement based on an actuarial analysis that determines the normal level of annual costs under the plan, and there is no reason that *non*-qualified pension costs should be treated differently. The Company uses Willis Towers Watson to value the net benefits and determine the amount to record monthly in order to meet the obligations of both plans. Willis Towers Watson is an actuarial firm that reviews the historical plan experience to determine the appropriate level of expense. There are annuity and lump sum payment options in the non-qualified plan that cause monthly and annual payments to fluctuate over time. Simple averages or payments made during a single year are less accurate and much less indicative of normal, ongoing levels of expense than the expert analysis performed by an actuarial firm. This is true for the qualified plan and is equally true for the non-qualified plan.

VII. EXCEPTIONAL PERFORMANCE BONUS

Q. Staff proposed a normalization of Exceptional Performance Bonus ("EPB") costs using a three-year average. Does the Company agree with this adjustment?

A. No. EPB payments were $1,250,750, $1,500,596, and $1,993,269 in 2018, 2019, and 2020, respectively. This is another case of Staff proposing a normalization that lowers the revenue requirement without any justification for discarding the test year level of a legitimate expense. Indeed, the above-cited figures show that normalization is completely inappropriate given the clear trend of increasing costs as a result of increased employment levels and inflation. If Staff's proposed adjustment were accepted, the allowed level of expense in the revenue requirement used to set rates would fail to reflect a normal level of expense and would fail to be reflective of the level of these costs in the future.

VIII. BOARD OF DIRECTORS EXPENSE

Q. Please describe Staff's proposed disallowances relating to Board of Directors expense.

A. Staff included an adjustment to remove additional board related expenses, beyond those already removed by the Company in its direct filing. These costs included charges for the Ritz Carlton Hotel, chartered flights, and an initial stock award.

Q. Does the Company agree with these adjustments?

A. In part. The Company accepts the adjustment for additional charges for chartered flights and the initial stock award (totaling $12,092). However, the Company disagrees with Staff's incremental $11,917 adjustment relating to the Ritz Carlton Hotel. The expense in question was recorded prior to the test year, in 2019, via an accrual. During the test year, the Company received the invoice, reversed the accrual made in the prior year, and paid the invoice. Therefore, this accounting activity during the test year had no net impact on 2020 expenses. Accordingly, the Staff adjustment reduces the revenue requirement for an expense that was not in the revenue requirement in the first place.

Q. Did Staff appropriately allocate its adjustment to gas operations?

A. No. Staff used an allocation method suitable for pension and other postemployment benefits expense. This method is not suitable or related to board of director's expenses. The appropriate allocation method is a more general method based on total payroll expense, as utilized in the Company's adjustment proposed on this topic.

Q. After taking into account the changes discussed, what is the appropriate adjustment for Board of Directors related costs?

A. The revised Board of Directors adjustment should remove $17,926 from gas O&M expense.

IX. ALLOCATION FACTORS

Q. Staff proposed an adjustment for Ameren Services Company allocation factors applicable to 2021. Does the Company agree with this adjustment?

A. No. Although the Company included an adjustment in its direct case to achieve the same objective, Staff incorporated an incremental allocation of the adjustment to gas operations. Staff is correct in making this incremental allocation to gas operations, but the mechanics of Staff's adjustment are incorrect. Staff applied this incremental allocation to all administrative and general accounts, when such an allocation is only appropriate and only occurs for accounts 921, 923, 926, 930, 931, and 935. After consideration of the proper accounts to apply an incremental allocation to gas operations for, the appropriate adjustment is to increase test year expenses by $54,729.[2]

X. BANK OF AMERICA O&M EXPENSE

Q. Staff proposed an adjustment to remove O&M expenses associated with the expired Bank of America lease. Does the Company agree with this adjustment?

A. Yes.

XI. MEMBERSHIP DUES

Q. Please explain the Company's review of invoices for determination of the lobbying portion of membership dues.

A. The Internal Revenue Service's Internal Revenue Code ("IRC") under section 162E requires trade organizations to account for "lobbying and political activities" at both the federal and state levels. Additionally, the Lobbying Disclosure Act ("LDA") governs federal lobbying activity. Specifically, the LDA requires the reporting of contracts at the federal level.[3] Revised Statute of Missouri Section 105.470 requires lobbyists to report lobbying activities. Based on these statutes and regulations, trade organizations are obligated to account for dues received and must segregate their lobbying costs from other organizational costs according to the law. Trade organization costs are audited, and misstatements are punishable as crimes. *See* the False Statements Accountability Act of 1996 amending 18 U.S.C §1001. As such, there is a strong expectation that amounts disclosed as lobbying on membership invoices are correct.

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[2] The Company also noted a minor formula error in Staff's supporting workpaper. This amount also reflects the correction of that error.
[3] 2 U.S.C. §1601 *et.seq.*

The Company reviewed each respective invoice to identify the appropriate lobbying percentages as disclosed by the organization, and then verified the appropriate amount from each invoice was booked correctly below the line. The Company's review determined no dues relating to the organizations identified by Staff should be disallowed as lobbying expenses.

XII. AGA DUES FOR LOBBYING

Q. Staff proposed an adjustment to remove a portion of AGA membership dues based on an unsupported assumption that 50% could possibly be related to lobbying activities. Does the Company agree with this adjustment?

A. No. First, when staff calculated their adjustment, they removed 50% of 2020 AGA dues and 50% of 2019 dues, which were never expensed in test year to begin with. Additionally, the Company has already recorded the portion of the 2020 AGA membership dues disclosed as lobbying below the line.

XIII. MISCELLANEOUS EXPENSES

Q. Staff identified certain miscellaneous expense transactions from the test year and proposed that each of them should be excluded from the revenue requirement. Does the Company agree with these adjustments?

A. Yes.

XIV. COMPANY OWNED LIFE INSURANCE ("COLI")

Q. Staff proposed an adjustment to reflect COLI gains, losses, and premiums below the line and, therefore, excluded from the revenue requirement. Does the Company agree with this adjustment?

A. Yes.

XV. DEPRECIATION CHARGED TO O&M

Q. Staff adjusted depreciation to exclude amounts ultimately charged to O&M. Does the Company agree with Staff's adjustment?

A. No, the Company and Staff have conferred, and Staff agrees that it made an error in calculating its adjustment. Staff indicated that it would correct this error in subsequent testimony. After correction of this error, the Company expects Staff's methodology to be consistent with the Company's.

XVI. CONVENIENCE CHARGES

Q. Staff proposed an average of payment levels from the 13 months ended June 30, 2021 are used to quantify this cost. Does the Company agree with Staff's proposal?

A. Substantially, yes. However, Staff failed to include customer-facing charges related to Automated Clearinghouse ("ACH") payments in its adjustment. As long as Staff includes all customer-facing charges in its adjustment and payment levels are updated through the true-up date, the Company accepts Staff's methodology for its adjustment.

XVII. PENSION AND OPEB TRACKER

Q. Staff proposed only deferrals of service costs are included in rate base prospectively. Why is Staff proposing a change to this existing tracker?

A. Staff argues that only service cost is eligible to be capitalized under existing Generally Accepted Accounting Principles ("GAAP") guidance and, therefore, only deferrals of service cost made under the trackers should be included in rate base.

Q. Does the Federal Energy Regulatory Commission ("FERC") Uniform System of Accounts require that only service cost may be capitalized?

A. No. FERC specifically allowed a one-time election for utilities to either align with GAAP guidance on capitalization of these costs or continue past practice of capitalizing both the service and non-service cost components.

Q. What election did Ameren Missouri make?

A. The Company chose to align its capitalization policy with the new GAAP guidance on this point. Several factors influenced this decision. This approach removed the need for on-going tracking of FERC to GAAP differences, which could result in significant incremental cost, both upfront and on an ongoing basis, that would ultimately be passed on to customers. These costs would include the cost of a potential system implementation for tracking FERC to GAAP capitalization differences as well as the potential need for staffing changes to accommodate the additional workload created by maintaining separate retained earnings balances for FERC and GAAP purposes.

Q. Did Staff support the inclusion of non-service-related deferrals made under this tracker in Ameren Missouri's last rate case?

A. Yes. Staff supported the continuation of this tracker in the same form, as it had existed previously even though the Company had made the previously mentioned policy election in 2018 and provided responses to numerous data requests on this topic.

Q. Why should the Commission reject Staff's proposal?

A. The policy election made by the Company has no substance from a ratemaking perspective, because Ameren Missouri, at its sole discretion, could have elected to continue capitalizing non-service costs. Further, the reason for electing this change in

2018 was to keep costs low for customers. Lastly, just as Staff supports the continued inclusion of service-cost-related deferrals in rate base, carrying costs related deferrals made under the tracker exist and should be recovered or refunded. The Company should be compensated for these carrying costs or compensate customers in instances where future refunds are owed by including any amount deferred under this tracker in rate base.

Q. Staff calculated prior pension and OPEB deferral balances based on amortization ordered in the Company's prior rate cases. Does the Company agree with Staff's calculations?

A. No. Staff's calculation relies on incorrect annual amortization amounts from File No. GR-2010-0363. Annual pension and OPEB amortization totaled $(478,296) in File No. GR-2010-0363.[4] As a result, the related unrecovered regulatory asset at February 28, 2022 will be $895,475.

Q. Staff recommends amortization of prior pension and OPEB deferrals over three years. Does the Company agree with this?

A. Although this represents a change from prior practice and Staff has offered no basis for change, the Company accepts this position.

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[4] File No. GR-2019-0077, Schedule LMM-R3 to Laura Moore Rebuttal Testimony.

XVIII. DISCONNECT/RECONNECT REVENUE

Q. Staff proposed to normalize disconnect, reconnect, and customer installation fees using calendar year 2019. Does the Company agree with Staff's proposal?

A. The Company accepts Staff's position with respect to disconnect/reconnect revenue.

XIX. LATE FEE REVENUE

Q. Staff proposed an adjustment to normalize late fee revenue. Does the Company agree with Staff's proposal?

A. The Company accepts Staff's position with respect to late fee revenue.

XX. CASH WORKING CAPITAL

Q. Staff updated the collections lag with information through the end of the test year. Does the Company agree with this update?

A. Yes. The Company recommended this update in its direct filing.

Q. In the cash working capital calculation, did Staff use different sales tax revenue lag and expense leads than the Company?

A. Yes. Staff utilized a revenue lag and expense lead that excluded the service lag components.

Q. Do you agree with this change?

A. No. Staff is grouping sales tax with other pass-through taxes, like the gross receipts tax, by excluding the service lag from the revenue lag component. However, these two types of taxes have different statutory requirements and thus must be treated differently in calculating the cash working capital factors.

The gross receipts tax is a tax on Ameren Missouri *itself* that is passed-through to customers. Accordingly, the service lag component is removed from the revenue lag. There is direct offsetting revenue for the gross receipts tax, and it is therefore properly recorded differently.

On the other hand, sales tax is a tax on Ameren Missouri's *customers* based on the sale of electricity to the customer, which is recorded as a liability. There is no direct offsetting revenue for the sales tax. Sales taxes are calculated on the customer's electric usage and the service lag should therefore be included in the revenue lag component.

The sales tax process the Company uses has remained the same for the past several rate cases. Historically, the Company has calculated the cash working capital requirements for sales taxes with the service lag component included in the revenue lag. Nothing has materially changed in the sales tax process that supports a change in the calculation of the cash working capital requirements for sales taxes. Sales taxes are not a pass-through tax and should not be treated as one in determining the cash working capital requirement.

Q. Please describe Staff's position on payroll and payroll tax leads.

A. Staff adjusted the payroll and payroll tax payment lead times for the management employees to zero. Staff's rationale for the change, is that "[T]he negative lead time associated with the pay date change reduces the expense lead for payroll and payroll taxes, and increases the positive net lag associated with these expenses which results in an increase to CWC and its associated rate base value."[5]

[5] File No. GR-2021-0241, Staff Cost of Service Report, p. 36, ll. 2-4.

Q. Do you agree with Staff's proposed changes?

A. No. I do not agree with Staff's rationale and it is at odds with longstanding practice. Historically, the Company has calculated the payment lead-time based on the period from the end of the service period date to the payment date. If a payment is made prior to when services are fully rendered, then the payment lead-time is calculated as a negative payment lead-time. In the past, this methodology has been accepted in calculating the payment lead-time because it reflects accurately the cash needs as compared to expense recognition.

Q. You say that the Commission has accepted a negative payment lead-time in the past for the calculation of the payroll and payroll taxes. Please explain.

A. From time to time, the Company has used negative payment lead-time for management employees in rate cases that have been approved by the Commission. For example, when a management payroll period fell on a weekend or holiday, the payment date was the preceding business day, which resulted in the calculation of a negative payroll lead-time. This methodology has not changed with the adjustment in management pay dates; it is simply being used on a larger scale. Furthermore, a negative payment lead-time can occur in other categories of payments to meet contractual obligations, such as pre-payment of services. Negative lead times are typically accepted in these other circumstances. Therefore, they should be accepted in addressing the payroll and payroll tax payment lead-time.

Q. Please explain Staff's position on PGA expense.

A. Staff proposed no cash working capital adjustment to the revenue requirement related to the Company's PGA.

Q. Do you agree with Staff's position on PGA expense?

A. Yes.

Q. Did Staff propose any other changes to the Company's revenue lags or expense leads?

A. Yes.[6] Staff proposed changes to expense lag calculations for total payroll and withholdings, incentive compensation, pension, OPEBs and other employee benefits in order to align the results of the Company's gas and electric studies.

Q. Do you agree with the changes Staff proposed to align the expense lags between the electric and gas businesses?

A. Yes.

XXI. LOW INCOME WEATHERIZATION

Q. Staff proposed an adjustment to remove $700,000 of low-income weatherization from O&M that was inadvertently double counted. Does the Company agree with this adjustment?

A. Yes.

XXII. RENTS AND LEASES

Q. Staff annualized rents and lease expense. Does the Company agree with this adjustment?

A. Yes.

[6] The Company and Staff have conferred and Staff agrees certain errors were made in its calculation of cash working capital. Staff will correct its errors in subsequent testimony.

XXIII. PROPERTY TAX TRACKER

Q. Staff recommends continuation of the Company's existing property tax tracker. Does the Company agree with Staff's recommendation?

A. Yes.

Q. Does this conclude your rebuttal testimony?

A. Yes, it does.

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Union Electric Company	**)**	
d/b/a Ameren Missouri's Tariffs to Adjust	**)**	Case No. GR-2021-0241
Its Revenues for Gas Service.	**)**	

AFFIDAVIT OF MITCHELL LANSFORD

STATE OF MISSOURI)
) ss
CITY OF ST. LOUIS)

Mitchell Lansford, being first duly sworn on his oath, states:

My name is Mitchell Lansford, and on his oath declare that he is of sound mind and lawful age; that he has prepared the foregoing *Rebuttal Testimony*; and further, under the penalty of perjury, that the same is true and correct to the best of my knowledge and belief.

/s/ Mitchell Lansford
Mitchell Lansford

Sworn to me this 14th day of October, 2021.