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MISSOURI PUBLIC SERVICE COMMISSION

FILE NO. ER-2014-0258

SURREBUTTAL TESTIMONY

OF

JOHN J. REED

ON

BEHALF OF

UNION ELECTRIC COMPANY
d/b/a Ameren Missouri

Marlborough, Massachusetts
February, 2015

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SURREBUTTAL TESTIMONY OF JOHN J. REED
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I. INTRODUCTION

Q. PLEASE STATE YOUR NAME AND EMPLOYMENT POSITION.

A. My name is John J. Reed, and I am Chairman and Chief Executive Officer of Concentric Energy Advisors, Inc. and CE Capital Advisors, Inc. (together "Concentric").

Q. ON WHOSE BEHALF ARE YOU TESTIFYING?

A. I am submitting this testimony on behalf of Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri" or the "Company").

Q. HAVE YOU PREVIOUSLY PROVIDED REBUTTAL TESTIMONY IN THIS PROCEEDING?

A. Yes, I have.

Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY IN THIS PROCEEDING?

A. My surrebuttal testimony addresses the rebuttal testimony of James R. Dittmer on behalf of the Consumers Council of Missouri, who proposes to disallow amortization of solar rebate costs because of what he claims would be a double recovery of solar rebate costs; and the testimonies of Sarah L. Kliethermes and Michael S. Scheperle on behalf of the Missouri Public Service Commission Staff, who provide recommendations with respect to Noranda Aluminum, Inc.'s ("Noranda") rate proposal regarding the Noranda aluminum smelter.

II. RESPONSE TO THE CONSUMERS COUNCIL OF MISSOURI'S PROPOSAL TO DISALLOW AMORTIZATION OF SOLAR REBATE COSTS

Q. WHAT ARE YOUR CONCLUSIONS REGARDING MR. DITTMER'S TESTIMONY?

A. Mr. Dittmer's testimony is highly duplicative of the earlier testimony submitted by MIEC witness Meyer. I responded to Mr. Meyer's testimony in my rebuttal testimony filed on January 16, 2015. However, in order to be complete, I have repeated here many of my views that were presented in my rebuttal testimony, since Mr. Dittmer has repeated many of the views first espoused by Mr. Meyer. My key conclusions regarding Mr. Dittmer are:

- Mr. Dittmer's testimony fails to explain that the solar rebate costs for which he is seeking a disallowance are being treated by Ameren Missouri in this case precisely as contemplated in a Commission-approved Stipulation and Agreement entered into by many of the parties in this case; he also fails to explain why the cost recovery explicitly called for in that Stipulation and Agreement should now be prohibited;
- The role of the regulator is to set rates based on a comprehensive cost of service filing. Once just and reasonable rates have been established, the revenues they generate are the property of utility management to be used in the provision of utility service. Customers pay for utility service. They do not pay the costs of providing service and have no claims on the revenues, earnings or assets derived

from that service; past levels of earnings cannot be used to redetermine past rates or to establish prospective rates;

- Mr. Dittmer's attempt to recoup past excess earnings by disallowing amortization is biased and opportunistic because he has failed to consider periods of earnings that were below the cost of capital, and violates the prohibition against retroactive ratemaking and the requirement that rates are set prospectively; this is not the first time Mr. Dittmer has made this type of recommendation, and the Commission has ruled against him on this point in a prior Order;
- Mr. Dittmer's analysis of recent earnings levels relies upon unadjusted earnings surveillance reports, which the Commission has already stated are unsuitable for the purpose of establishing rates, and do not necessarily indicate that a utility is "overearning." Similar views to Mr. Dittmer's regarding Ameren Missouri's past "overearnings" have been presented to the Commission in the Noranda overearnings complaint case (File No. EC-2014-0223), and were fully rejected by the Commission in that case.
- Mr. Dittmer's suggestion to disallow the amortization of capitalized solar rebate costs undermines the stringent accounting requirements for the creation of regulatory assets and would make it practically impossible for any deferred expense to meet the "probable" criteria for regulatory asset accounting treatment;
- If the Commission shares any of Mr. Dittmer's concerns regarding Ameren Missouri's recent earnings those concerns should focus on a prospective

solution, not through an attempt to use past earnings levels to determine future rates.

Q. PLEASE SUMMARIZE THE TESTIMONY AND RECOMMENDATIONS PUT FORTH BY MR. DITTMER.

A. Mr. Dittmer requests that the Commission reject Ameren Missouri's proposal to recover solar rebate costs over a three year period that have been, or are projected to be, deferred on the Company's balance sheet as of December 31, 2014, pursuant to deferral accounting granted for such costs within Case No. ET-2014-0085. Mr. Dittmer claims that during the period that Solar Rebate costs were deferred, Ameren Missouri reported earnings in excess of its allowed return sufficient to cover the rebate costs. As such, he proposes that solar rebate costs be written off in the current period and that rate recovery be disallowed. The effect of Mr. Dittmer's proposal is to disallow approximately $101.1 million of the Company's cumulative revenue requirement (over the amortization period) on the basis of claimed "over-recovery" or "double-recovery" of costs associated with past earnings. Adopting Mr. Dittmer's proposal would not only reduce Ameren Missouri's revenue requirement in this case by approximately $32.3 million, but would require an immediate write-off and reduction in earnings in 2015 of over $100 million.

Q. PLEASE DESCRIBE THE STIPULATION THAT HAS GOVERNED AMEREN MISSOURI'S TREATMENT OF SOLAR REBATE COSTS.

A. On November 8, 2013, a Stipulation and Agreement was reached to resolve all issues connected with Ameren Missouri's application to suspend payment of solar rebates.

The agreement specified an aggregate level of solar rebate payments ($91.9 million) that Ameren Missouri must reach before it was allowed to suspend payments and was entered into by Ameren Missouri in lieu of ceasing payment of solar rebates in 2013 as a result of reaching a 1% rate cap included in Missouri's Renewable Energy Standard ("RES") law. The agreement provided that solar rebate costs and other RES compliance costs be accumulated as a regulatory asset and recovered in rates after December 31, 2013, in a general rate case, through a three-year amortization period. The Agreement specifically stated that the signatories agreed not to object to Ameren Missouri's recovery in retail rates of prudently-incurred solar rebates. However, signatories could raise the issue of prudence.[1] This agreement was unopposed by any party to the case and was approved by the Commission on November 13, 2013 as a unanimous agreement.[2]

Q. YOU MENTIONED THAT AMEREN MISSOURI MADE CONCESSIONS TO REACH THE AGREEMENT. WHAT WERE THEY?

A. Ameren Missouri made two significant concessions. First, it agreed to continue paying the solar rebates until a specified minimum value of $91.9 million was met instead of ceasing to pay them because of the 1% cap; and second, Ameren Missouri agreed to recover the rebate costs through a general rate case and not through a Renewable Energy Standard Rate Adjustment Mechanism Rider. The Company

1 Public Service Commission of the State of Missouri, In the Matter of Ameren Missouri's Application for Authorization to Suspend Payment of Certain Solar Rebates, File No. ET-2014-0085, Tariff No. YE-2014-0173, Non-Unanimous Stipulation and Agreement (November 8, 2013) at 7.d.

2 Public Service Commission of the State of Missouri, In the Matter of Ameren Missouri's Application for Authorization to Suspend Payment of Certain Solar Rebates, File No. ET-2014-0085, Tariff No. YE-2014-0173, Order Approving Stipulation and Agreement (November 13, 2013)

made those concessions under the understanding that the only challenge it could receive with respect to recovery of the solar rebate costs would be a prudence challenge. Because Ameren Missouri relied on this Stipulation, they gave up the opportunity to discontinue payment of solar rebates or the option of recovering solar rebate costs through a rider.

Q. WHO WERE THE PARTIES THAT AGREED ON THE STIPULATION AND AGREEMENT?

A. The Stipulation and Agreement was signed by eight parties: the Staff of the Commission, the Office of the Public Counsel, Missouri Division of Energy, Missouri Solar Energy Industries Association ("MOSEIA"), Brightergy, LLC, Earth Island Institute d/b/a Renew Missouri, and the Missouri Industrial Energy Consumers ("MIEC"). The Commission considered the Stipulation to represent a unanimous agreement and approved it, including the recovery of the solar rebate costs through a three-year amortization, as being in the public interest.

Q. ON WHAT BASIS DOES MR. DITTMER REQUEST THE COMMISSION TO REJECT AMEREN MISSOURI'S AMORTIZATION OF DEFERRED SOLAR REBATE COSTS?

A. Although Mr. Dittmer acknowledges the binding nature of the Stipulation, and that it was relied upon by Ameren Missouri and its auditors in booking the regulatory asset,[3] he asks the Commission to reject the stipulated treatment on the basis of alleged past

[3] Rebuttal Testimony of James R. Dittmer on behalf of the Consumers Council of Missouri (January 16, 2015), at 5-6.

"excess earnings" which he claims provides "double recovery" of solar rebate costs. Because Mr. Dittmer has calculated (from quarterly surveillance reports) that past "excess revenues" exceeded the solar rebate payments made during the deferral period, he concludes that rebate costs had already been recovered through the "excess revenues" once and should not be recovered again.

Q. WHAT IS YOUR ASSESSMENT OF MR. DITTMER'S PROPOSITION?

A. Mr. Dittmer's proposal should be rejected by the Commission for a number of reasons. First, even though Mr. Dittmer claims that he is not proposing to disallow solar rebate costs, but rather claims that those costs have already been recovered through excess revenues that were alleged to have occurred during the period, he is essentially recommending that the treatment the Commission approved in the Stipulation should now be rejected, which would effectively negate the Stipulation and the concessions that were made to reach it. He completely ignores the Stipulation's provision that the accumulated costs should be recovered *prospectively*, through rates in effect after December 31, 2013. Secondly, he bases his proposal for future rates on the existence of past excess earnings which is retroactive ratemaking and is prohibited by this Commission and every commission I am aware of in the United States. The 3-year prospective amortization period for solar rebate costs was agreed upon and supported by a number of parties, including Commission Staff and customers, and was specifically approved by the Commission itself. Parties made concessions to reach the stipulated settlement with the expectation that the settlement would be honored.

Q. BUT ISN'T IT REASONABLE TO CONSIDER PAST EXCESS REVENUES AS ANOTHER FORM OF COST RECOVERY AS LONG AS THE COMPANY IS ABLE TO EARN ITS ALLOWED RETURN?

A. Absolutely not. Cost of service ratemaking establishes prospective rates based on an extensive study of the utility's test year costs. Those costs are scrutinized by stakeholders, challenged, reviewed by the Commission and ultimately set into rates based on the Commission's determination that they are just and reasonable. Once rates have been established, they are not revisited and can only be changed prospectively. Neither the Commission nor its customers have any claim on the Company's earnings that past rates produced and customers most certainly did not "pay" the utility's costs if the utility earned more than the target return set in the prior case, nor did the customers fail to "pay" the utility's costs if the utility earned less than the target. This point is clearly articulated by the Missouri Supreme Court, where it stated:

> The just compensation safeguarded to the utility by the Fourteenth Amendment is a reasonable return on the value of the property used at the time that it is being used for the public service. And rates not sufficient to yield that return are confiscatory. (Citing cases.) . . .The revenue paid by the customers for service belongs to the company. The amount, if any, remaining after paying taxes and operating expenses, including the expense of depreciation, is the company's compensation for the use of its property. If there is no return, or if the amount is less than a reasonable [***14] return, the company must bear the loss. Past losses cannot be used to enhance the value of the property or to support a claim that rates for the future are confiscatory. (Citing cases.) And the law does not require the company to give up for the benefit of future subscribers any part of its accumulations from past

> operations. Profits of the past cannot be used to sustain confiscatory rates for the future. (Citing cases.)[4]

The Missouri Supreme Court's decision cites to a well-known decision issued by the U. S. Supreme Court, *Board of Public Utility Commissioners v. New York Telephone* (46 S. Ct. 363, 1926), which states that "Past losses cannot be used to enhance the value of the property or to support a claim that rates for the future are confiscatory … Profits of the past cannot be used to sustain confiscatory rates for the future … Customers pay for service, not for the property used to render it. Their payments are not contributions to depreciation or other operating expenses or to the capital of the company." Quite simply, Mr. Dittmer's position is the antithesis of the Supreme Court's ruling. He takes the position that past "excess earnings" specifically paid for the solar rebate costs and that this regulatory asset should now be denied the prospective recovery that the Stipulation calls for.

Q. DOES THE MISSOURI COMMISSION STILL ADHERE TO THESE PRINCIPLES?

A. Yes it does. It rejected arguments to reclaim past earnings in the Noranda earnings complaint case, and Mr. Dittmer's views regarding Ameren Missouri's past "overearnings" and "double recovery" of costs are virtually identical to the positions taken in that case. The common premise of these witnesses is that the Commission uses rate cases to establish an authorized level of earnings and no more;[5] this is

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[4] *State ex rel. Empire Dist. Electric Co. v. Public Service Com.*, Supreme Court of Missouri, December 14, 1936.

[5] Mr. Dittmer ignores that utilities also earn less than they were "authorized" to earn.

simply wrong. The Commission specifically explained this flaw in its recent Order in the Noranda earnings complaint case. The Commission stated:

> The Commission only sets the rates that Ameren Missouri, or any other utility, may charge its customers. It does not determine a maximum or minimum return the utility may earn from those rates. Sometimes, the established rate will allow the utility to earn more than was anticipated when the rate was established. Sometimes, the utility will earn less than anticipated. But the rate remains in effect until it is changed by the Commission and so long as the utility has charged the authorized rate, it cannot be made to refund any "overearnings", nor can it be allowed to collect any "underearnings" from its customers. *[Straube v. Bowling Green Gas Co., 227 S.W.2d 666 (Mo. 1950)]*[6]

Clearly the Commission has no authority to reclaim past earnings and recategorize them as solar rebate cost recovery. Mr. Dittmer's proposal has been rejected in Missouri since as far back as 1936. As the Commission has clearly stated, so long as rates are in effect and the utility is charging the authorized rates, it cannot be made to refund any "overearnings," which is clearly the regulatory outcome Mr. Dittmer is seeking.

Q. YOU STATED EARLIER THAT THE COMMISSION HAS SPECIFICALLY RULED AGAINST MR. DITTMER'S POSITION WHEN HE ADVANCED IT IN A PRIOR CASE. WHAT IS THAT PRIOR CASE, AND WHAT WAS THE COMMISSION'S RULING?

A. In a Kansas City Power and Light matter, Case No. ER-2006-0314, the Commission's Order made the following statements regarding the recoverability of ice storm costs for KCPL:

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6 Public Service Commission of Missouri, Report and Order, File No. EC-2014-0223, Issued October 1, 2014, at 18.

> The United States Department of Energy (DOE) argues that KCPL has already recovered those costs in rates, and that, therefore, the Commission should disallow this expense. According to DOE witness Dittmer, KCPL has recovered those costs due to its robust, if not excessive, return on equity during the ice storm amortization period.
>
> The Commission finds that the competent and substantial evidence supports KCPL's position, and finds this issue in favor of KCPL. DOE complains that KCPL has already recovered those [*93] costs in rates. However, DOE witness Dittmer testified that he was unaware of any Staff or Commission action to reduce rates from 2002 to now because of overearnings, which would include the recovery of ice storm costs from ratepayers. Regardless of KCPL's prior earnings, the Commission gave KCPL an accounting authority order to defer and amortize its ice storm costs through January 31, 2007, which includes the test year in this case.

This Order is consistent with the Commission's prior orders on the recovery of regulatory assets, even when the utility was earning at or above its cost of capital. The Commission has specifically stated that it "finds unpersuasive the contention of Staff/Public Counsel that these costs have already been recovered in rates," and that "the relevance of this issue of passed [sic] overrecovery is nebulous at best."[7]

Q. IN NORTH AMERICAN REGULATORY PRACTICE, HAVE THERE BEEN CASES WHERE THE RECOVERABILITY OF REGULATORY ASSET BALANCES HAS BEEN BASED ON PAST EARNINGS LEVELS?

A. No, I am not aware of any instance where regulatory asset recovery was considered or rejected based on past earnings levels. The entire concept of setting future rates based on past levels of earnings has been rejected by many regulators and courts, and notably by the Commission and Missouri courts. In the Commission's recent Order

[7] Re Missouri Public Service, Case No. ER-93-37 (1994).

deciding the Noranda earnings complaint, the Commission identified that the consideration of past earnings levels when establishing future rates violates the prohibition against retroactive ratemaking. In that decision, the Commission reiterated its adherence to this fundamental ratemaking standard and its commitment to setting rates prospectively. The Commission stated:

> Rate making is designed to be forward looking. The goal is to choose a representative test year to estimate what costs will be when rates are in effect, not to make adjustments for past earning levels. The practice of setting future rates to adjust for past earning levels *[State ex rel. Southwestern Bell Tele. Co. v. Pub. Serv. Comm'n, 645 S.W.2d 44, 48 (Mo. App. W.D. 1982)]* is condemned as retroactive ratemaking that would deprive either the utility or its customers of their property without due process *[State ex rel. Util. Consumers Council of Mo, Inc. v. Pub. Serv. Comm'n, 585 S.W.2d 41, 58 (Mo. banc 1979)]*.[8]

The Commission's stance against retroactive ratemaking is not new. In 2007, the Commission found that to allow the amortization of past tax refunds into future rates would constitute retroactive ratemaking and should be rejected.[9] North American regulatory practice strictly adheres to the prohibition against retroactive ratemaking. Otherwise, rate schedules would become unreliable, and neither customers nor utility companies would be able to rely on their stated rates as the basis for consumption decisions, investment decisions and financial reporting. Not only would that unreliability be egregious for other regulatory assets, but it is particularly egregious here where we are dealing with solar rebate costs that the utility was required by law

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[8] *Atmos Energy Corp. v. Office of Public Counsel*, 398 S.W.3d 224 (2012), referencing *Assoc. Nat. Gas v PSC Mo*, 954 S.W.2d 520 (1997)

[9] Missouri Gas Energy, a Division of Southern Union Company, Case No. GR-2006-0422, Tariff File No. YG-2006-0845, Missouri Public Service Commission (March 22, 2007).

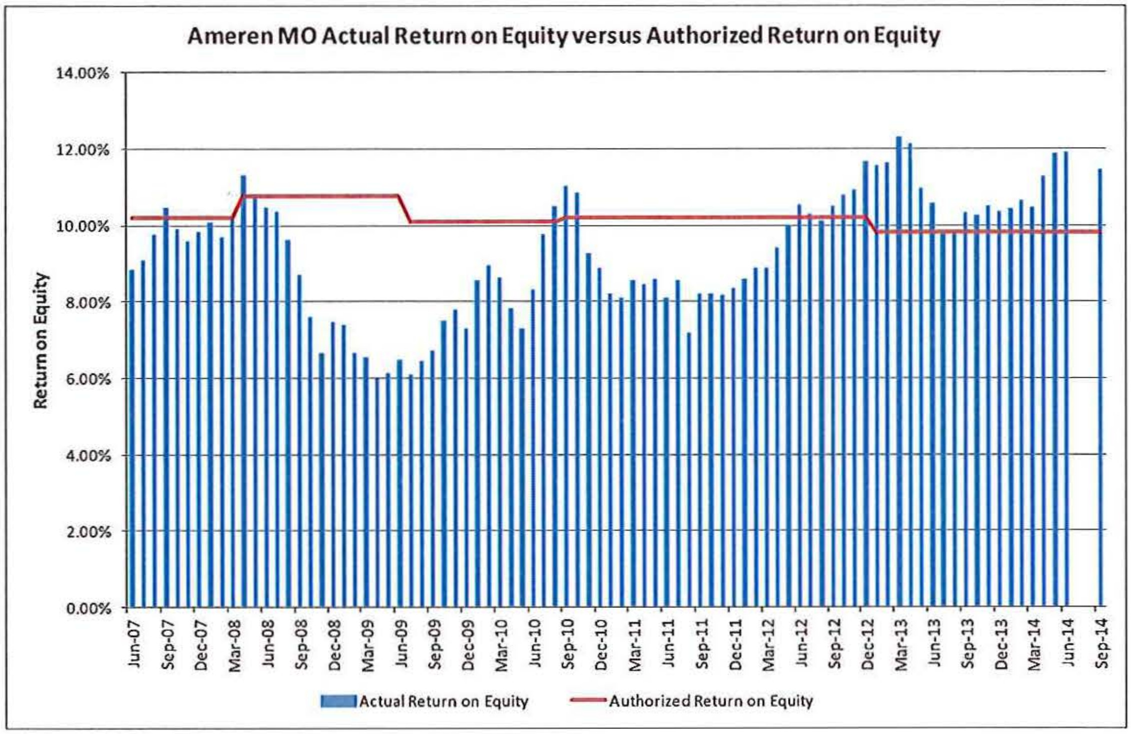
to pay, and that the utility paid in reliance on a Commission-approved Stipulation and Agreement that provided for the precise means of recovery.

Mr. Dittmer's view of past excess earnings as "double recovery" undermines the principles of cost of service ratemaking and the prohibition against retroactive ratemaking. Further, this view is completely biased against the utility, and it should be noted that no witness has advanced an argument of "extra recovery" to increase rates in periods of underearnings, as was the case from 2007-2012, where Ameren Missouri absorbed several years of earnings well below its cost of capital.

Q. HAVE YOU CONDUCTED AN ANALYSIS OF EARNINGS WHICH INCLUDE THE PERIOD BACK TO 2007?

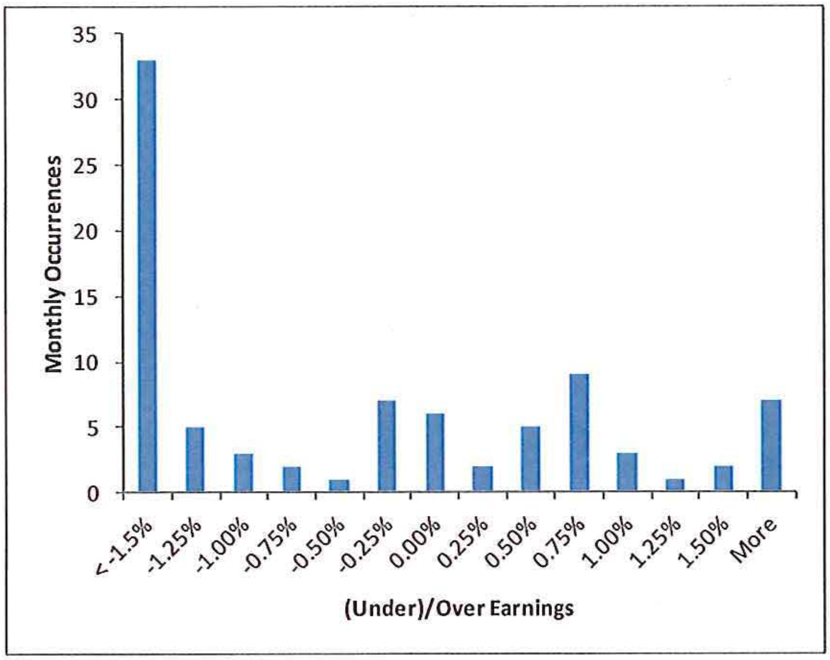
A. Yes, I have. Referring back to my recent rebuttal of Mr. Meyer's testimony on behalf of the MIEC, I provided the below analysis which was assembled from data in the Commission Order in the Noranda earnings complaint case, and data in Mr. Meyer's testimony. I performed a review of earnings for the period from June 2007 through September 2014, lacking data for July and August 2014, due to the fact that Ameren Missouri reverted to its normal practice of quarterly surveillance reporting. My analysis revealed that for the 86 months for which I had data, Ameren Missouri's earnings were below the targeted level in 58 months (67% of the time), and were above the targeted level in only 28 months (or 33% of the time) since June 2007.

Figure 1: Unadjusted Earned Returns vs. Authorized Returns



This analysis shows that since June 2007 there have been many more occasions of underearning than there have been of overearning. The data also reveals that periods of overearning have been relatively modest while periods of underearning have been substantial. Figure 2 shows that there were 33 months in my sample where actual earnings were greater than 1.5 percentage points below the authorized return. Historically, this occurred approximately 38% of the time.

Figure 2: Frequency Distribution of (Under)/Over Earnings: 6/2007 - 9/2014



On average, my analysis revealed that Ameren Missouri has historically "underearned" based on unadjusted book returns by roughly 1 percent (*i.e.* 0.91%), for the period from June 2007 to September 2014, even considering the period of recent "overearnings."

Mr. Dittmer's position that Ameren Missouri's recent "overearnings" should be recaptured and used to write-off assets that Ameren Missouri correctly capitalized and recorded as regulatory assets is unprecedented, inequitable and opportunistic.

Q. DO QUARTERLY SURVEILLANCE REPORTS PROVIDE THE RIGHT DATA TO MAKE DETERMINATIONS ON WHETHER THE COMPANY'S RATES ARE JUST AND REASONABLE?

A. No. The quarterly surveillance reports provide a snapshot of unadjusted book earnings, which the Commission has already found in the Noranda earnings complaint case to be unsuitable for the purpose of determining whether a utility is "over-earning" or for making any rate determinations. The Commission found that factors such as weather have a material impact on these numbers. The Commission stated:

> However, it is important to understand that the earnings levels reported in the surveillance reports are actual per book earnings of the utility and cannot be compared directly to an authorized return on equity to determine whether a utility is overearning. Actual per book earnings are often computed differently than earnings used for the purpose of establishing rates. When setting rates, the Commission looks at "normal" levels of ongoing revenues and expenses, while book earnings can be affected by abnormal, non-recurring and extraordinary events. A good example of this is the weather. [10]

Without the full suite of normalization adjustments, such as weather normalization, adjustments for known and measureable changes, etc. it is impossible to know whether a utility's rates are above or below a reasonable level, or whether its earnings are outside a normal range of variation.

Q. DO YOU AGREE WITH MR. DITTMER THAT THERE IS A "REASONABLE INDICATION" THAT EVEN IF ALL THE NECESSARY

[10] Public Service Commission of Missouri, Report and Order, File No. EC-2014-0223, Issued October 1, 2014 at 8-9.

ADJUSTMENTS HAD BEEN MADE TO THE SURVEILLANCE REPORTS, AND SOLAR REBATE COSTS WERE NOT DEFERRED, THAT EARNINGS WOULD STILL HAVE FALLEN WITHIN A CLOSE RANGE OF THE TARGETED RETURN?

A. No. Mr. Dittmer's statement is nothing more than speculation. It is impossible to know what actual normalized earnings are without performing the normalization adjustment for weather and without performing the required rate case adjustments, to which Mr. Dittmer refers in his testimony.[11] The Commission recognized at the time of the Company's last rate case that even though its raw surveillance reports showed "overearnings," during the same period, the Company's revenue requirement was too low by $266 million. In the current case, while surveillance results show earnings above the target return used to last set rates, the other parties' revenue requirement analyses also suggest that rates are currently too low. This is not surprising, Mr. Dittmer's speculation to the contrary notwithstanding.

Q. MR. DITTMER STATES THAT THE GRANTING OF DEFERRAL ACCOUNTING IS NOT TANTAMOUNT TO GRANTING EXPLICIT RATEMAKING TREATMENT, AND THAT RECOVERY OF THE SOLAR REBATE COSTS WERE NOT GUARANTEED. DO YOU AGREE?

A. I agree that rate recovery is not necessarily "guaranteed" when a regulatory asset is established. Most often, the Commission reserves the right to challenge recovery on the basis of prudence. However, in this case, the explicit ratemaking treatment was

[11] *See* Dittmer Rebuttal Testimony, filed January 16, 2015 at 10.

specified in a Stipulation on solar rebate costs, which was approved by this Commission. The only appropriate challenge to recovery of these costs is on the basis of prudence, and as I demonstrated previously in this testimony, there have been no challenges to the prudence of these costs whatsoever.

Q. YOU MENTION THAT MR. DITTMER'S PROPOSAL WOULD JEOPARDIZE THE ENTIRE VALUE OF AMEREN MISSOURI'S REGULATORY ASSETS. PLEASE EXPLAIN.

A. Though Mr. Dittmer acknowledges the accounting criteria for booking regulatory assets, he basically dismisses it. He recognizes that the primary accounting criteria that must be met to capitalize an incurred cost that would otherwise have been charged to income, i.e. that "a) it is probable that future revenue in an amount at least equal to the capitalized cost will result from inclusion of that cost in allowable costs for rate-making purposes; and b) based on available evidence, the future revenue will be provided to permit recovery of the previously incurred cost rather than to provide for expected levels of similar future costs."[12] Said another way, the accounting criteria require that recovery in rates is 1) probable, and 2) that past regulatory practice supports the probability of future recovery of the specific deferred costs.

If the Commission were to endorse Mr. Dittmer's view and write-off the full amount of the regulatory asset balance (approximately $100 million) to current year earnings, it would send a message to Ameren Missouri's accountants and the financial community that there are unpredictable and punitive strings attached to the booking

[12] FASB 71, General Standards of Accounting for the Effects of Regulation, Par. 9.

of regulatory assets, such as solar rebate costs, and that recovery in fact is neither probable, nor still supported by ratemaking practice; instead, recovery would be contingent on the past earnings of the company. Going forward, none of Ameren Missouri's regulatory assets would meet the accounting criteria for capitalization which most definitely would have a bearing on investors' confidence in this Commission's willingness to allow recovery of prudently incurred costs. This would effectively remove from the Commission's toolbox one of the regulatory tools that it has long used in regulating the rates of the utilities under its jurisdiction.

Q. IS THERE A PROSPECTIVE RATEMAKING APPROACH THAT ALLOWS EARNINGS THAT ARE ABOVE OR BELOW THE COST OF EQUITY TO BE FACTORED INTO THE DEVELOPMENT OF FUTURE RATES?

A. Yes. As is the case in Missouri, regulators generally recognize that utilities will achieve periods of book earnings that are either above or below the cost of equity target. A review of earned vs. authorized returns for Ameren Missouri shows that Ameren Missouri's results are clearly within industry norms of acceptable levels of deviation. However, if the regulator is concerned that traditional ratemaking may produce earnings swings that are larger than what is reasonable, it could establish a prospective earnings sharing arrangement or "ROE collar" between the utility and the ratepayers. Earnings sharing mechanisms often incorporate "dead bands" or "collars" that use symmetrical ranges above and below the target level (*i.e.* +200 basis points above and below the allowed ROE), and typically reflect the regulator's desire, and the utility's acceptance, that earned returns should remain within a prescribed range, or that a rate case should be initiated to correct earnings variances that are outside of these bounds. What distinguishes these mechanisms from traditional cost of service regulation is that the sharing of earnings shortfalls or surpluses is established *in advance* of those events occurring, and that the utility and its customers and investors understand that these variances will be shared through prospective rate adjustments that reflect past performance. In addition, these mechanisms provide symmetrical treatment of "underearnings" and "overearnings." While I am not recommending that the Commission adopt an earnings collar or sharing mechanism, I wanted to point out that these mechanisms are an equitable means of addressing earnings variances, if the Commission is concerned about such variances.

Q. PLEASE SUMMARIZE YOUR CONCLUSIONS AND RECOMMENDATIONS REGARDING MR. DITTMER'S PROPOSAL.

A. Mr. Dittmer requests that the Commission reject Ameren Missouri's amortization of solar rebate costs, contrary to the terms of a Commission-approved Stipulation that provided for three-year amortization of these costs in this case. Ameren Missouri accepted and relied on that Stipulation, relinquishing the opportunities to either discontinue solar rebate payments because of the 1% rate cap or to recover those costs through a rider. The agreement reserved the right to challenge cost recovery on the basis of prudence, and absent such a successful challenge, Ameren Missouri should receive full cost recovery. Furthermore, Mr. Dittmer's recommendations contravene the long-established prohibitions against retroactive ratemaking and would create great concern in the financial community in terms of the Commission's willingness to uphold agreements or to allow recovery of prudently incurred costs. His view also directly contradicts rulings that this Commission has established, and recently reiterated, regarding the concept of "excess earnings," the use of past financial performance to set prospective rates, and the use of unadjusted earnings surveillance reports to infer whether a utility's rates were too high. Lastly, as this Commission has clearly stated, it is widely recognized that utilities can and will achieve periods of earnings that are above and below the cost of equity target that was used to set its rates, and that this target is neither a ceiling nor a floor on utility earnings. Once rates are set, they cannot be refunded, but can only be changed prospectively. Mr. Dittmer's arguments are biased, short-sighted and improper, and I urge the Commission to reject them in their entirety.

III. RESPONSE TO STAFF AND INTERVENOR RECOMMENDATIONS WITH REGARD TO NORANDA'S RATE REDUCTION REQUEST

Q. WHAT IS THE PURPOSE OF THIS PORTION OF YOUR SURREBUTTAL TESTIMONY?

A. This portion of my surrebuttal testimony responds to the recommendations of Sarah L. Kliethermes and Michael S. Scheperle on behalf of Commission Staff as they relate to Noranda's proposed rate reduction.

Q. PLEASE SUMMARIZE STAFF'S POSITION WITH REGARD TO NORANDA'S PROPOSED RATE REDUCTION.

A. Through the rebuttal testimony of Ms. Kliethermes and Mr. Scheperle, Staff generally opposes most aspects of Noranda's proposed rate reduction, and recommends that Noranda continue to receive electric service under its existing retail tariff. In particular, Ms. Kliethermes recommends that regardless of the rate paid by Noranda, the reasonableness of Noranda's rate should be examined by the Commission in every rate case and any appropriate changes should be made, without limitation, and that risk of changes in the market price and transmission expense of energy to serve Noranda should not be passed to other Ameren Missouri customers.[13] Mr. Scheperle recommends that Noranda remain under the current LTS service classification, opposes Noranda's proposed seven-year rate plan, observes that Noranda is paying 10.68% less than Ameren Missouri's cost to serve the LTS rate class, objects to Noranda's proposed 1% annual rate increase cap on the basis that it would shift additional risks and costs to other classes and ratepayers, and believes that Noranda should continue to pay the fuel adjustment clause.[14]

Q. WHAT IS YOUR RESPONSE TO STAFF'S RECOMMENDATIONS?

A. While I understand and agree with Staff's desire to abide by the principles of traditional cost-based ratemaking, I believe that Staff has focused too narrowly on attempting to make Noranda's proposal for a reduction in its retail rates more palatable, if the Commission were to decide that some measure of relief to Noranda were warranted. As I discussed in my rebuttal testimony, divorcing Noranda's rates from cost of service violates the regulatory compact, and doing so based solely on the private claimed needs of a particular customer, creates severe undue discrimination problems. Consequently, if a solution is needed then it more properly could be found in the wholesale contract proposed by Ameren Missouri in the rebuttal testimony of Company witness Matt Michels. As discussed in my rebuttal testimony, I believe that

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13 Rebuttal Testimony of Sarah L. Kliethermes, at 18.
14 Rebuttal Testimony of Michael S. Scheperle.

permitting Noranda to become a wholesale customer of Ameren Missouri represents sounder economic and regulatory policy. Under a "retail-turned-wholesale" alternative, Noranda would be served under negotiated contract rates that reflect the wholesale market value of power as of the time of contracting. At the end of the contract term, Noranda would be a wholesale electric customer subject to negotiating a new agreement with Ameren Missouri or an alternative electric provider, and Ameren Missouri would not have a continuing obligation to serve Noranda under cost-based retail service rates.

Under these circumstances, Staff's attempt to "improve" Noranda's retail proposal is like trying to fit a square peg into a round hole. The more adjustments to the cost-of-service analysis that have to be made to whittle down the square peg, the more distorted it becomes as a mode of cost-of-service ratemaking.

Further, as discussed in my rebuttal testimony, "ability to pay" is a foreign concept to cost-of-service ratemaking for regulated public utilities, and generally comes into play only when there has been a political decision by the legislature to support lower rates for a specific group of customers (e.g., low income customers). Allowing Noranda to continue taking service as a retail customer at rates that are not cost-based is tantamount to the Commission approving a subsidy for Noranda at the expense of other Ameren Missouri customers without any indication from elected officials that such a subsidy is justified or in the public interest.

Q. DOES THIS CONCLUDE YOUR SURREBUTTAL 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 Increase Its Revenues for Electric Service.	)))	File No. ER-2014-0258

AFFIDAVIT OF JOHN REED

COMMONWEALTH OF MASSACHUSETTS)
) ss
COUNTY OF MIDDLESEX)

John Reed, being first duly sworn on his oath, states:

1. My name is John Reed. I work in the City of Marlborough, Massachusetts, and I am employed by Concentric Energy Advisors, Inc.

2. Attached hereto and made a part hereof for all purposes is my Surrebuttal Testimony on behalf of Union Electric Company d/b/a Ameren Missouri consisting of 23 pages, ~~and Schedule(s)~~XXXXXXXXXXXXXXXXXXX, all of which have been prepared in written form for introduction into evidence in the above-referenced docket.

3. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct.

John J. Reed
John Reed

Subscribed and sworn to before me this 2nd day of February, 2015.

Joanne P. Bickford
Notary Public

My commission expires: 10/15/15

JOANNE P. BICKFORD
NOTARY PUBLIC
COMMONWEALTH OF MASSACHUSETTS