Exhibit No.:	
Issue(s):	Rate Case Expense; Board Documents; Dues; Late and Disconnection/Reconnection Fees
Witness:	Tom Byrne
Type of Exhibit:	Rebuttal Testimony
Sponsoring Party:	Union Electric Company
File No.:	ER-2021-0240
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MISSOURI PUBLIC SERVICE COMMISSION

FILE NO. ER-2021-0240

REBUTTAL TESTIMONY

OF

TOM BYRNE

ON

BEHALF OF

UNION ELECTRIC COMPANY

D/B/A AMEREN MISSOURI

St. Louis, Missouri
October 15, 2021

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REBUTTAL TESTIMONY

OF

TOM BYRNE

FILE NO. ER-2021-0240

I. INTRODUCTION

Q. Please state your name and business address.

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

Q. Are you the same Tom Byrne 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 Missouri Public Service Commission Staff ("Staff") Cost of Service Report ("COS Report") on the following topics:

- Staff's recommendation regarding the amount of rate case expense to be included in the revenue requirement in this case;
- Staff's recommendation that the Company make documents from its Board of Directors' meetings and various committee meetings available to Staff on a continuous basis; and
- Staff's proposed disallowances of various dues that Ameren Missouri pays to organizations to which it belongs.

In addition, I am responding to the recommendations of the Office of the Public Counsel ("OPC") and Consumers' Council of Missouri ("CCM") to greatly lower, or remove, late fees and disconnection/reconnection fees.

II. RATE CASE EXPENSE

Q. What is Staff recommending with regard to rate case expense to be included in the revenue requirement in this case?

A. Like the Company, Staff witness Jason Kunst developed a normal level of rate case expense by averaging the rate case expense for Ameren Missouri's last three rate cases. That resulted in a normal level of rate case expense of $1,502,981 for each rate case. Also, like the Company, the Staff further normalized this amount over two years—in other words, both parties presumed that the Company would file rate cases every two years and so 50% of the normal level of rate case expense should be included in the annual revenue requirement. As I mentioned in my direct testimony, this is a conservative assumption based on the Company's recent history of filing rate cases more frequently. However, Staff witness Kunst diverged from the Company's approach in that he is recommending sharing of rate case expense 50/50 between customers and shareholders, so he is only recommending that half of the normalized amount be included in the revenue requirement.

Q. Is Mr. Kunst's proposal to share rate case expense 50/50 between customers and shareholders appropriate in this case?

A. No, it is not. The section of the Staff's COS Report that addresses this issue suggests that Mr. Kunst applied the 50/50 sharing as a matter of general policy, not based on the facts of this particular case. Specifically, Mr. Kunst bases his proposed cost sharing on the following justifications, which would apply to any rate case:

1) The sharing of rate case expenses creates an incentive for the utility to control rate case expense to a reasonable level, while eliminating the disincentive for the utility to control the rate case expense;

2) Ratepayers and shareholders both benefit from the rate case process. While the ratepayer receives safe and adequate service at a just and reasonable rate, the shareholder is afforded the opportunity to earn an adequate return on their investment;

3) Ratepayers will continue to pay for the majority of the rate case expense regardless of any sharing mechanism when including the internal labor costs that are not included in the sharing mechanism, therefore it is a fair and equitable to allocate a portion of the rate case expense to the shareholders; and

4) It is highly probably that some recommendations advocated by the utility through the rate case process will ultimately be determined to be not in the public interest by the Commission.[1]

Again, these are general policy considerations that would apply to any rate case filed by any utility.

Q. What is wrong with the Commission adopting a generic policy to allocate rate case expense 50/50 based on general policy considerations that would be applicable to any rate case filed by any utility?

A. If the Commission wants to adopt a policy of general applicability to all utilities it must do so through a rulemaking proceeding, where it provides notice to the public and an opportunity to comment to all interested stakeholders. After considering those comments, and following the procedures in the Missouri Administrative Procedure Act, the Commission can adopt a rule of general applicability on the allocation of rate case expense between customers and shareholders. However, the Commission has not conducted such a rulemaking proceeding, so any allocation of rate case expense between customers and shareholders must be based on the specific facts of each case.

[1] File No. ER-2021-0240, Staff Cost of Service Report, p. 127, ll. 2-15.

Q. Has the Commission recognized this limitation on its ability to apply a generic policy to the allocation of rate case expenses?

A. Yes it has. In an appeal by Kansas City Power & Light Company ("KCPL") of the Commission's allocation of rate case expenses between customers and shareholders, KCPL alleged that the Commission had improperly established a policy of general applicability to all utilities for sharing rate case expense without following the procedures for rulemaking. The Commission recognized this limitation on its ability to enact a policy of general applicability without following rulemaking procedures, but denied it had done so in that case. The Commission's brief in that case stated:

> **B. The Commission established a method of rate case allocation based only of the facts of this case and did not engage in improper rulemaking**.
>
> "Agency rulemaking occurs with the formulation, or repeal, of a statement of general applicability that implements, interprets or prescribes law or policy, or that describes the organization, procedure, or practice requirements of any agency." Greenbriar Hills Country Club v. Dir. of Revenue, 47 S.W.3d 346, 357 (Mo.banc 2001) (internal quotation and citation omitted). An agency rule cannot be promulgated or repealed in an adjudicatory proceeding. Id. To effect a rule change applicable to all utilities, the Commission would have to undertake a rulemaking under Chapter 536. Id.
>
> Contrary to KCPL's assertions, the Commission did not announce a new rule applicable to all utilities in this case. KCPL asserted during the rate case that the Commission was engaging in a rulemaking through an adjudicatory order. (LF 1522). ***The Commission expressly denied that it was announcing a general change in policy regarding rate case expense in this Report and Order***. (LF 1522). The Commission instead set just and reasonable rates under the particular facts of this case and did not engage in improper rulemaking. (LF 1522). ***The Commission may handle rate case expense differently in future rate cases.***[2]

[2] *Brief of Respondent Public Service Commission in Response to Kansas City Power & Light's Brief*, May 5, 2016, Case No. WD79125, Missouri Court of Appeals, Western District of Missouri, pp. 52-53 (emphasis added).

Q. Did the court accept this argument?

A. Yes, it did. The court's opinion stated: "Contrary to KCPL's argument, the PSC clearly established that the formula was proper *in this case* due to the unique circumstances of this rate case and it was not announcing a new policy of general applicability to all utilities."[3] The court cited a number of specific circumstances in the case that justified the Commission's allocation of rate case expenses, including the following statement from the Commission's order in that case:

> The evidence shows that the expenses in this case are driven primarily by issues raised by KCPL, which has complete control over the content and methodologies proposed when it files its rate cases. In this case, KCPL has requested three new trackers, two of which have never been requested before in Missouri. KCPL has also requested recovery in rates of the expenses from the Clean Charge Network, which is a type of expense that has never been raised in a rate case before this Commission. Each of these issues are unique to KCPL, and while KCPL always has the opportunity to pursue new and unique issues in a rate case, the decision to do so is entirely with[in] KCPL's power. In addition, KCPL has pursued some issues that only directly benefit shareholders, such as the La Cygne accounting authority and, of course, a higher ROE. In recent rate cases, KCPL has incurred rate case expenses substantially higher than historical levels and higher than other utilities in Missouri.[4]

Q. Have there been any other Missouri court decisions addressing the allocation of rate case expense?

A. Yes. Earlier this year, the Missouri Supreme Court addressed the Commission's order allocating 50% of Spire Missouri's rate case expense to shareholders. The Court upheld the Commission's decision, but again the decision was grounded in the specific facts of that case. The Supreme Court said:

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[3] *In the Matter of Kansas City Power Light Company's Request v. Mo. Pub. Serv. Comm'n,* 509 S.W.3d 757, 777 (Mo. App. W.D. 2016) (emphasis added).
[4] *Id.*, quoting the Commission's Report and Order in File No. ER-2014-0370.

> As of September 30, 2017, Spire's total rate case expenses were $1,393,399. The PSC's staff of technical and subject matter experts ("Staff") recommended disallowing expenses relating to the procurement of a Cash Working Capital study by the consultant firm Scott Madden. The Office of Public Counsel recommended disallowing expenses related to Spire's expert witness Thomas Flaherty because of the high hourly rate charged. The PSC determined that approximately half the litigated issues in this case were driven by Spire and among these issues were the proposed use of various shareholder-favorable ratemaking tools, including a revenue stabilization mechanism, a rate of return on equity of 10.35 percent (which would have been the highest of any large utility in Missouri), tracking mechanisms to limit shareholder risk, and earnings-based incentive compensation. The PSC further determined Spire "padded" its revenue requirement by pursing positions it did not expect to win. Accordingly, the PSC determined Spire should recover the entire cost of customer notices, totaling $436,000, and Spire's depreciation study,[[4]] totaling $54,114, but only 50 percent of Spire's remaining rate case expenses.[5]

Q. Has Staff cited any specific facts in this case that would justify allocation of any part of the rate case expense to Ameren Missouri shareholders?

A. No, it has not. As I previously mentioned, Staff witness Kunst's adjustment is only based on general policy considerations that would be applicable to any rate case. He has cited no case-specific evidence that would justify allocation of any portion of the rate case expense to Ameren Missouri shareholders, let alone 50%.

Q. Do the specific circumstances of this case justify the allocation of rate case expense to shareholders?

A. No, they do not. Ameren Missouri has filed a very "clean" case driven largely by rate base investment needed to serve customers. Ameren Missouri has not raised unique issues designed to benefit shareholders. Ameren Missouri has not proposed multiple shareholder-favorable ratemaking tools. Ameren Missouri has not "padded" its revenue requirement taking positions on issues it did not expect to win. In fact, the Staff's direct

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[5] *Spire Missouri, Inc. v. Pub. Serv. Comm'n,* 618 S.W.3d 225, 229 (Mo. Banc 2021) (footnotes in quote omitted).

testimony recommends that the Commission approve nearly three-fourths of Ameren Missouri's initial request, and the differential between Ameren Missouri's case and Staff's is in large part driven by different end dates for expenses used in the Company's and Staff's direct cases (Ameren Missouri projected numbers through the end of the true-up period and Staff generally used actuals through the end of June). The difference is likely to reduce when true-up data becomes available and is used by both Staff and Ameren Missouri to develop their final revenue requirement recommendations. Ameren Missouri has not asked for an unreasonably high return on equity—the 9.9% request is only 10 basis points higher than a 9.8% return granted to Spire in a recent case and only 15 basis points higher than the range of reasonable returns on equity supported by the Staff in this case. The normalized rate case expense calculation is also based on previous cases, and parties did not challenge the reasonableness of attorney or witness fees in any of those cases. The total amount of rate case expense proposed for inclusion in this case — $751,491 — is a normalized three-year average and is not unusually high compared to other utilities' rate case expense, particularly given the size and complexity of Ameren Missouri's rate cases. As a consequence, there is no basis whatsoever to allocate any rate case expense to shareholders in this case.

Q. Is Ameren Missouri asking the Commission to approve two new trackers in this case?

A. Yes, but the trackers for which Ameren Missouri is seeking approval in this case are tied to initiatives that directly benefit customers. One tracker allows Ameren Missouri to significantly reduce costs in the revenue requirement in this case by accounting for the upcoming retirement of the Meramec Energy Center in late 2022. Specifically, the Meramec adjustment reduced the revenue requirement in this case by $55.5 million, and it is enabled by the tracking mechanism. Staff supports the Meramec tracker. The second tracker facilitates the Company's offering of multiple time of use rates to residential customers, which allows customers to select the rate that will best match their usage and reduce their electric bills.

Based on the foregoing, there are no case-specific facts which would justify allocation of any of Ameren Missouri's rate case expense to shareholders.

III. AMEREN BOARD OF DIRECTORS DOCUMENTS

Q. Please summarize Staff's recommendation regarding documents from the Company's Board of Directors' meetings and Board Committee meetings.

A. Staff witness Lisa Ferguson expressed concerns that it took extra time for Ameren Missouri to respond to Staff's request to review Board and Board Committee documentation in this case. She said that this type of delay can create problems due to the limited timeframe that Staff has to conduct its audit in a rate case. Consequently, she recommended that the Commission order Ameren Missouri to make such documentation available to Staff upon request at any time, outside of a rate case or any other proceeding.[6]

Q. Were there delays in getting Staff copies of Board and Board Committee documentation in this case?

A. Yes, there were some delays. Typically, Staff reviews physical copies of Board documents at Ameren Missouri's office. However, due to COVID, Ameren Missouri's offices were closed. Therefore, the Company had to develop a method to share the documents Staff sought electronically, and development of that process delayed the provision of the documents. In addition, there was a slight delay due to the unavailability of the custodian of the Board documents. However, these delays did not prevent the Staff from having the opportunity for full

[6] File No. ER-2021-0240, Staff Cost of Service Report, p. 4-5.

review of the documents for its audit. Moreover, these were one-time issues that should not recur in the future. The method for electronic review is now fully functional, and can be used in future cases.

Q. Do the delays mentioned above justify the Commission ordering the Company to provide Board and Board Committee documentation to Staff at any time Staff requests, whether there is a case pending or not, whether they are relevant to any legitimate Staff inquiry or not?

A. No. Staff reviews Board documents in every rate case and in some Purchased Gas Adjustment and Fuel Adjustment Clause cases, but to my knowledge, they have never even asked to see Board documents in any other situation. Although they certainly could discover Board documents in other cases, such as a Staff investigation for example, the documents would have to be relevant to the inquiry at hand. It is not appropriate, in my opinion, for Staff to access these sensitive documents at all times and for any or no reason at all.

Q. Is the Company willing to agree to any steps to make sure that Board and Board Committee documents are available to Staff on a timelier basis in rate cases?

A. Yes. The Company is willing to commit to providing Staff with Board and Board Committee documents within two weeks of filing a general rate case. These documents would be for the period beginning with the true-up date in the Company's previous rate case until the date of filing of the new rate case. The Company would also provide regular updates as the case progresses. This should provide Staff plenty of time to review these documents during the 11-month period of the rate case. The Company will also provide the documents pursuant to discovery requests in any other case where the Staff requests them, subject to any valid objections.

IV. DUES

Q. Please summarize Staff's recommendations regarding the dues that Ameren Missouri pays various industry organizations.

A. Staff witness Jane C. Dhority has recommended a disallowance of approximately $3 million for dues that Ameren Missouri paid in the test year to various organizations. Although Ms. Dhority did not explain how she calculated her proposed disallowances, based on my review of Staff's workpapers it appears that Ms. Dhority arbitrarily disallowed 100% or 50% of the dues for each organization.

Q. Did Ms. Dhority support her adjustments with evidence about each organization whose dues were proposed for disallowance?

A. Not at all. At the beginning of her section of the Staff Report, Ms. Dhority briefly mentions three organizations with small amounts of dues that she proposes to disallow- the Missouri Athletic Club, the St. Louis Zoo Association and the St. Louis Symphony Orchestra. Ameren Missouri agrees with the proposed disallowances of the small amount of dues paid to each of these three organizations. Staff is incorrect to the extent it contends an adjustment needs to be made for dues paid to the St. Louis Zoo Association and the St. Louis Symphony Orchestra since the Company had already recorded those dues below-the-line; i.e., they were never in Ameren Missouri's requested revenue requirement.

Ms. Dhority also briefly discusses the fact that the Commission has historically disallowed Edison Electric Institute ("EEI") dues based on evidence adduced in previous Kansas City Power & Light Company rate cases. However, Ms. Dhority does not even mention the names of the dozens of other organizations whose dues she proposes to disallow, let alone providing any type of analysis of each organization that would be necessary to support her disallowances. In short, Ms. Dhority's proposed disallowance is completely unsupported by any evidence showing that Ameren Missouri's payment of dues was in any way improper or worthy of disallowance.

Q. What is Ms. Dhority's basis for disallowing these costs?

A. I am not entirely sure. Ms. Dhority did attach an appendix to her report consisting of a newspaper article from the *Missouri Independent* published on June 7, 2021. Although the article focuses primarily on the gas industry, the theme of the article is that sometimes industry organizations "may" advocate for positions that could be contrary to customers' interests.

Q. Does this article justify Ms. Dhority's disallowance of 50-100% of the dues of all the industry organizations to which Ameren Missouri belongs?

A. Absolutely not. Justification of any such proposed disallowance would require an examination of each of the subject organizations to determine what it actually does. Ms. Dhority has provided no such evidence in this case. This evidence should have been provided in Staff's direct case and, without such evidence, these expenditures are presumed to be prudent.

Q. Are the dues paid by Ameren Missouri to industry organizations beneficial to customers?

A. As a general rule they are.

Q. Can you provide information on the various organizations to which Ameren Missouri pays dues to support this statement?

A. Yes, I can. I should note that approximately $2.7 million of Ms. Dhority's approximately $3 million adjustment deals with just five organizations:

Edison Electric Institute: $612,045 disallowance (100%)

Electric Power Research Institute ("EPRI"): $1,047,669 disallowance (50%)

Utility Solid Waste Activities Group ("USWAG"): $78,495 disallowance (100%)

Nuclear Energy Institute ("NEI"): $270,486 disallowance (50%)

North American Electric Reliability Corp. ("NERC"): $632,052 disallowance (50%)

I will address the appropriateness of the dues Ameren Missouri paid to each of these organizations. Ameren Missouri witness Mitchell Lansford will address the numerous other organizations whose dues Ms. Dhority proposes to disallow in part or in whole. Finally, Ameren Missouri witness Jason Wibbenmeyer will explain some of the EPRI projects that the Company has participated in to the benefit of customers.

Q. What is Edison Electric Institute?

A. EEI is the national organization of regulated electric utilities.

Q. Do Ameren Missouri's customers benefit from Ameren Missouri's membership in EEI?

A. Yes, Ameren Missouri's membership in EEI provides customers with significant benefits in many areas. By pooling resources and information with other EEI members, the Company can more efficiently and effectively address issues and challenges it has in common with other members of the utility industry than if the Company addressed those issues on its own. EEI actively addresses challenges that electric utilities face in the areas of cybersecurity, information technology, accounting, environmental, energy efficiency, operations/reliability, and other areas. It sponsors conferences, workshops and other educational opportunities on these, and other important issues. In response to Staff DR 139, which is attached to my testimony as Schedule TMB-R1, the Company provided a detailed listing of many of the services that EEI provided Ameren Missouri during the 12 months ending December 31, 2020. This extensive accounting of the benefits EEI provides to Ameren Missouri and its customers clearly justifies Ameren Missouri's membership in EEI and supports the recovery of EEI dues. I would note that the Staff Report completely ignores the benefits set forth in this data request response.

Q. Are there other benefits of EEI membership that are not listed in response to DR 139?

A. Yes. DR 139 was limited in time to the 12 months ended December 31, 2020. And Ameren Missouri's recitation of the services EEI provides, while extensive, was not exhaustive. Consequently, there are more services EEI offers. For example, EEI has a Spare Transformer Equipment Program ("STEP") through which it coordinates the inventory of spare transformers among participating utilities. These transformers have long construction lead times, and in the event of a terrorist attack could not easily be replaced. EEI's STEP program helps insure that these transformers are available to any participating utility whose operations are compromised by a terrorist attack. Ameren Missouri participates in the STEP program and customers benefit from the insurance it provides against the loss of a transformer. This is another valuable benefit of Ameren Missouri's membership in EEI that supports the inclusion of Ameren Missouri's membership dues in the revenue requirement.

Q. Is it possible to quantify an exact dollar value for each of the benefits provided by Ameren Missouri's membership in EEI?

A. No.

Q. In sum, why should the Commission reflect approximately $612,045 of EEI dues in the Company's revenue requirement?

A. The Commission should allow recovery of the Company's EEI dues because, while it is not possible to exactly quantify a dollar value of any one of the many benefits membership in EEI provides, based on the scope of EEI's activities and the support EEI provides, common sense dictates the conclusion that EEI membership provides very substantial benefits to Ameren Missouri's customers. It is similarly obvious that the value of those benefits easily exceeds the EEI membership dues reflected in the revenue requirement in this case.

Q. Does EEI engage in any lobbying activity that might properly be disallowed?

A. Yes. EEI reports to the IRS that 14% of its dues go to pay lobbying expenses. Ameren Missouri excluded this amount from its initial rate request. As Mr. Lansford indicates in his rebuttal testimony, applicable statutes and regulations require organizations such as EEI to accurately account for that portion of their dues related to lobbying. Since we have already excluded that amount from the revenue requirement, none of the remaining dues we pay should be disallowed on the grounds that they relate to lobbying.

Q. What is the Electric Power Research Institute ("EPRI")?

A. EPRI is an independent research and development organization that supports the electricity sector and is focused on electric generation and delivery related areas. Ameren Missouri witness Jason Wibbenmeyer discusses the benefits of EPRI at length in his rebuttal testimony, and provides an exhaustive (57-page) explanation of the many research projects that Ameren Missouri has worked on with EPRI. EPRI has a large Advisory Council that assists with prioritizing research and ensuring its relevance and balance in serving the public interest. The Advisory Council includes 11 members who are appointed by NARUC and one of the current 11 members is Commissioner Maida Coleman, who has been a member of the Advisory Council since 2020.[7] EPRI's expertise and assistance with research and development projects has clear benefits for Ameren Missouri's customers and the full amount of Ameren Missouri's EPRI dues--$2,095,338—should be included in Ameren Missouri's revenue requirement.

Q. Does EPRI engage in lobbying activities that might properly be disallowed?

A. No, EPRI did not identify any amount on its invoices as lobbying, as it would be required to do if it had undertaken lobbying activities, so there is no adjustment to make to these expenditures in Ameren Missouri's revenue requirement.

Q. What is the Utility Solid Waste Activities Group?

A. The Utility Solid Waste Activities Group includes over 130 utility operating companies, power producers, energy companies and industry associations, including EEI, NRECA, APPA, and the American Gas Association. USWAG provides experienced legal and technical resources on utility solid waste management issues. More specifically, USWAG addresses waste, byproduct and chemical management, and transportation issues on behalf of the utility industry. USWAG's core mission is to support the industry's efforts to comply with federal environmental regulations, protect the environment, and serve its customers. As part of that effort, USWAG engages in regulatory advocacy, regulatory

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[7] https://www.epri.com/about/advisory-council

analysis and compliance assistance, and information exchange pertaining to the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), Resource Conservation and Recovery Act ("RCRA"), Toxic Substances Control Act ("TSCA") and Hazardous Materials Transportation Act ("HMTA").

Q. What value does Ameren Missouri's membership in USWAG provide to its customers?

A. Of specific value to Ameren Missouri and its customers, are the cost-effective resources available as a result of its participation in the group. Ameren Missouri has access to legal and technical expertise in solid waste management issues that would be much more expensive if Ameren Missouri acquired the resources independently. As a consequence, the dues paid to USWAG during the test year of $78,495 should be included in the Company's revenue requirement.

Q. Should any amount from USWAG payments be removed from the revenue requirement due to lobbying activities?

A. To a very small extent and it reflected this percentage (just 1%) on its invoices. Consequently, we agree that $785 should be removed from the Company's revenue requirement since we inadvertently did not record that amount below-the-line.

Q. What is the Nuclear Energy Institute?

A. The NEI is the policy organization of the nuclear technologies industry.

Q. What benefits does Ameren Missouri's membership in NEI provide to customers?

A. The NEI coordinates information sharing across the nuclear industry. It provides education on issues facing the nuclear industry, and holds multiple conferences each year on technical issues facing the industry. It also provides written educational materials to members, assists members in the interpretation of Nuclear Regulatory Commission regulatory requirements, and helps coordinate positions on regulatory and technical issues among nuclear industry participants. It is critical that Ameren Missouri have access to the information that the NEI provides to its members, to ensure that it can continue to provide safe, reliable, efficient operation of the Callaway Nuclear Plant. Consequently, the dues that Ameren Missouri paid to NEI during the test year should be included in the revenue requirement.

Q. Does NEI engage in lobbying activities?

A. Yes. NEI's estimate of its lobbying expenses, as reported to the IRS, are 1.5% of its overall expenses. Ameren Missouri agrees that this portion of its annual dues--$8,115—should be excluded from recovery in rates. The remaining portion of the annual dues--$532,857—should be included in the revenue requirement.

Q. What is the North American Electric Reliability Corporation?

A. NERC is a not-for-profit international regulatory authority whose mission is to assure the effective and efficient reduction of risks to the reliability and security of the electric grid. NERC develops and enforces Reliability Standards; annually assesses seasonal and long-term reliability; monitors the bulk power system through system awareness; and educates, trains, and certifies industry personnel. NERC’s area of responsibility spans the continental United States, Canada, and the northern portion of Baja California, Mexico. The Federal Energy Regulatory Commission ("FERC") has designated NERC as the Electric Reliability Organization ("ERO") for North America, as have governmental authorities in Canada. NERC's jurisdiction includes users, owners, and operators of the bulk power system, which serves nearly 400 million people. In short, NERC establishes mandatory reliability standards and enforces them under the jurisdiction of FERC.

Q. Does Ameren Missouri pay dues to NERC?

A. No. Membership in NERC is free. However, NERC's operating costs are approved by FERC and allocated to load serving entities in NERC's area of responsibility, such as Ameren Missouri.

Q. Is there any basis for the Staff to disallow any portion of the amounts Ameren Missouri is required to pay to NERC?

A. Absolutely not. These are mandatory payments to a FERC regulated reliability authority. Ameren Missouri has no discretion not to pay these amounts. And of course, customers benefit greatly from the reliability of the North American electric grid that NERC ensures. Staff's proposal to disallow a portion of these costs is utterly meritless and should be rejected.

Q. Does NERC engage in lobbying activity?

A. To a very small extent and it reflected this percentage (just 0.034%) on its invoices. Consequently, we agree that $323 should be removed from the Company's revenue requirement since we inadvertently did not record that amount below-the-line.

V. LATE FEES AND DISCONNECTION/RECONNECTION FEES

Q. OPC witness Dr. Geoffrey Marke and CCM witness Jacqueline Hutchinson recommend removing or drastically reducing late fees and discontinuing the use of disconnect/reconnect charges. Do you believe such changes are appropriate?

A. I do not. The Commission should recognize that adoption of this type of a policy would constitute a complete change in cost recovery philosophy and would result in different utilities having very different approaches to late fees across the state. If the Commission believes a policy change should be examined, then it should establish a workshop docket to discuss the potential impact upon all customers and utilities and, if appropriate, adopt an administrative rule. The rule could then be applied and implemented in each utility's rate case.

Q. Is it unusual for utilities to charge late fees or disconnect/reconnect fees?

A. It is not. Every utility in the state charges a late fee for bills paid after a due date. I have not done a survey outside of the State of Missouri but it is my impression that late fees are commonplace the industry. In fact, late fees are common for almost every billed service that I can think of, even beyond utilities – credit card payments, leases, home loans, car loans, etc. The idea is to incentivize customers to pay their bills on time. Utilities, like all businesses, rely on cash flow to pay their bills and to function. Incentivizing people to pay on time helps to maintain a necessary cash flow.

My knowledge of disconnection/reconnection fees is similar. Every utility in the state charges some type of fee for disconnection and reconnections, which in the pre-smart meter world was because disconnection and reconnection required an extra trip to the customer's residence. This charge assigns the cost of making those disconnections and reconnections appropriately to those that cause the cost to be incurred. Except for customers with a smart meter, Ameren Missouri is required to visit the service address to disconnect and then again to reconnect. As Ameren Missouri installs smart meters, the additional trips are no longer necessary to those customers. Accordingly, the Company has a lower fee for those disconnections and reconnections, because they occur remotely.

Q. If the Commission decided to do away with or greatly lessen these fees, would there be an impact on the Company's revenue requirement?

A. This action would not lower the total revenue requirement (although the requested increase would go up), but it would mean the costs of late paying customers would be borne by all customers instead of by the cost causers. For example, in 2019, the last pre-COVID year, revenue earned from electric customer late fees totaled $8,702,362 and disconnect/reconnect fees totaled $1,709,600. If the Commission eliminated or reduced these fees, this revenue would have to be collected elsewhere within Ameren Missouri's rates, most likely by adding them to the volumetric rates paid by all customers.

Additionally, the Cash Working Capital ("CWC") study (a study which compares when cash comes into Ameren Missouri to when cash is paid out by the Company) submitted in this case would no longer be accurate because the Company's cash working capital requirement would be understated. That study determined the costs associated with the existing level of late payments. However, as the number of customers who pay late increases because of the removal of the incentive to pay on time, the Company's cash working capital needs will also increase. Consequently, if the Commission were to eliminate late fees it would also need to increase the revenue requirement to account for these higher cash working capital needs resulting from that change.

Q. Do you believe greatly reducing or removing late fees and disconnection fees would impact customer behavior?

A. I do. During the first several months of the COVID-19 pandemic, Ameren Missouri sought and was granted the ability to not impose late fees or to disconnect customers. During that time, approximately March through August of 2020, we saw arrears increase substantially both for customers who had a history of delinquency and for those who did not. Once we reinstated those charges, arrears and write-offs have normalized. While there are likely other factors involved in this situation, it is clear that while late and disconnection/reconnection fees were eliminated that the incentive to pay on time had been reduced.

Q. Are there any other problems that could be caused by reducing/eliminating late fees and disconnect/reconnect charges?

A. Yes. Customers will have less incentive to pursue energy assistance dollars that are available to them. They may also run up larger balances that ultimately are impossible for them to pay. For all of these reasons, reducing or eliminating late fees and disconnect/reconnect charges is not appropriate.

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

AFFIDAVIT OF TOM BYRNE

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

Tom Byrne, being first duly sworn on his oath, states:

My name is Tom Byrne, 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/ Tom Byrne
Tom Byrne

Sworn to me this 13th day of October, 2021.