BEFORE THE PUBLIC SERVICE COMMISION
OF THE STATE OF MISSOURI

In the Matter of the Union Electric Company	)	
d/b/a Ameren Missouri's Tariffs to Decrease	)	**Case No: ER-2019-0335**
Its Revenues for Electric Service.	)	

PUBLIC COUNSEL'S INITIAL POST-HEARING BRIEF

Respectfully submitted,

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The Office of the Public Counsel (OPC) presents its Initial Post-Hearing Brief as follows:

I. Introduction

Union Electric d/b/a Ameren Missouri (Ameren Missouri or the Company) initiated this rate case by applying for an approximately $800,000 revenue decrease on July 3, 2019.[1] Concurrent with its application, Ameren Missouri asked that the Public Service Commission (Commission) authorize the continuation of its existing fuel adjustment clause (FAC). Multiple parties intervened, and the Commission set a procedural schedule and test year on August 15, 2019.[2] After staking their claims in direct, rebuttal, and surrebuttal testimony, the parties began negotiating on the multitude of raised issues. Negotiations successful produced one stipulation and agreement encompassing nearly all contested issues on February 28, 2020,[3] and another dispute regarding affiliate transactions was resolved with a second settlement on March 9, 2020.[4] The Commission later approved both stipulation and agreements on March 18, 2020.[5] Despite otherwise productive discussions, one remaining issue remains: the efficiency incentive included within Ameren Missouri's FAC.

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[1] *Application*, ER-2019-0335 (July 3, 2019).
[2] *Order Setting Test Year and Adopting Procedural Schedule*, ER-2019-0335.
[3] *Non-Unanimous Stipulation and Agreement*, ER-2019-0335.
[4] *Second Non-Unanimous Stipulation and Agreement*, ER-2019-0335.
[5] *Order Approving Stipulation and Agreements*, ER-2019-0335.

The FAC is a surcharge on customer bills that covers the increase and decrease in fuel and purchased power costs and revenues in between rate cases.[6] The FAC's enabling statute reads that the Commission may include "features designed to provide the electrical corporation with incentives to improve the efficiency and cost-effectiveness of its fuel and purchased-power procurement activities" when approving an FAC.[7] This efficiency incentive has historically taken the form of what is colloquially referred to as a "95/5 sharing." Accordingly, when fuel and purchased-power costs are higher than expected, customers pay for 95% of the increased costs while the utility bears the remaining 5%. Conversely, when fuel and purchased-power activity costs are lower than what was calculated in the previous rate case, customers receive 95% of their excess-payments, and the company retains 5% of the savings.[8] For context, it is worth noting that the 5% of the increased or decreased fuel costs amounts to less than one percent of total fuel and purchased power costs.[9]

Ameren Missouri proposes that the existing sharing mechanism remain at 95/5, while the OPC maintains that an 85/15 sharing is more appropriate and better incentivizes efficient behavior on the part of all electric utilities. The Commission held an evidentiary hearing on this issue on March 11, 2020, and asked for briefing on this issue from interested parties.

II. Legal Standard

As in all controversies of law and fact, the burden of proof falls upon the movant attempting to demonstrate the veracity of a claim.[10] In this case, Ameren Missouri is the party applying for a continuation of its FAC under Section 393.266, RSMo. It is also the party asking for an efficiency

[6] Exhibit 200, *Direct Testimony of Lena Mantle*, ER-2019-0335 p. 3 (Dec. 4, 2019).
[7] Mo. Rev. Stat. § 386.266.1 (2019).
[8] Exhibit 200, LM-D-2 p. 13.
[9] Exhibit 200, p. 8.
[10] *Clapper v. Lakin*, 123 S.W.2d 27, 33 (Mo. banc 1938).

incentive of a 95/5 sharing. Ameren Missouri then bears the burden of persuasion on both issues as to whether its FAC and the current 95/5 sharing should continue. The OPC bears its own separate burden of persuasion as to whether the FAC efficiency mechanism should instead be an 85/15 sharing.

Whether an FAC or an accompanying efficiency incentive is approved is ultimately a matter of Commission discretion. The Commission may approve a FAC after finding that the mechanism provides a utility with a "sufficient opportunity to earn a fair return on equity," includes an annual true-up provision, requires the applicant utility to file a subsequent rate case within four years, and includes prudence review procedures.[11] Even with a sufficient finding of the aforementioned requirements, the Commission may nonetheless still reject an FAC. The adoption of any associated efficiency incentive incorporated in the FAC is likewise within the Commission's discretion.[12]

III. <u>Proposed Findings of Fact</u>

1. An electric utility *without* an FAC bears all of the risk of increasing fuel and purchased power costs until it returns to the Commission for a rate case. Conversely, an electric utility without an FAC also enjoys retaining 100% of the achieved savings (deferential between the fuel costs used to set rates and actual fuel and purchased power costs) when those costs drop below the level set in the last rate case.

2. An electric utility *with* an FAC greatly reduces both the risk and potential windfall of regulatory lag, and may be appropriate in some instances to ensure a utility is provided an opportunity to earn its authorized return for its service.[13]

[11] Mo. Rev. Stat. § 386.266.5.
[12] Mo. Rev. Stat. § 386.266.1.
[13] *Report and Order*, ER-2008-0318 p. 59 (Jan. 27, 2009).

3. Ameren Missouri is earning its authorized return. Over the last ten financial quarters, Ameren Missouri reported that it earned below its authorize return over the previous twelve months only once.[14]

4. Some type of efficiency incentive, such as a sharing mechanism, is necessary for the operation of a FAC because after-the-fact prudence reviews are insufficient to assure the public that electric utilities are continually taking action to keep fuel and purchased power costs low.[15]

5. Backward looking "regulatory reviews are only a partial substitute for the direct incentives that can result from a utility's quest for profit."[16]

6. Ameren Missouri has utilized an FAC since the Commission approved it in 2009.[17]

7. Ameren Missouri's FAC has historically used a 95/5 sharing. Under the 95/5 sharing, Ameren Missouri's customers have paid for over $6 billion in fuel and purchased power costs through the FAC since 2009.[18] Over that same time, Ameren Missouri's customers have received over $76 million when fuel costs decreased. Ameren Missouri is not relying upon the current FAC sharing arrangement to meet its authorized return.[19]

8. The Commission determined 95/5 sharing is appropriate based on political compromise, and not based on any particular valuation of whether 5% was a sufficient incentive.[20]

9. The 5% efficiency incentive is measured relative to the difference in net base energy costs versus actual fuel and purchased power costs. Comparing the 5% figure to an electric utility's full

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[14] Exhibit 201, *Rebuttal Testimony of Lena Mantle*, ER-2019-0335 p. 6 (Jan. 21, 2020).
[15] *Report and Order*, ER-2007-004 p. 54 (May 17, 2007).
[16] *Report and Order*, ER-2007-0002 p. 19 (May 22, 2007).
[17] *Report and Order*, ER-2008-0318; *Direct Testimony of Lena Mantle*, LM-D-2 p. 8.
[18] Exhibit 202, *Surrebuttal Testimony of Lena Mantle*, ER-2019-0335 LM-S-3 (Feb. 14, 2020).
[19] Transcript of Proceedings (Transcript), Evidentiary Hearing, ER-2019-0335 p. 350 (Mar. 11, 2019).
[20] Transcript. p. 400.

fuel and purchased power costs shows that the 5% incentive amounts to less than one percent of all fuel costs.[21]

10. Through the 95/5 sharing, Ameren Missouri has not recouped approximately $42 million in increased fuel costs over the life of Ameren Missouri's entire experience with an existing FAC.[22] Restated, Ameren Missouri's customers have paid for approximately $800 million in fuel cost increases over the life of Ameren Missouri's FAC.

11. While electric utilities do not have complete control over fuel costs, there are certain measures that are within their control. For example, Ameren Missouri has continued to employ personnel with the qualifications and experience necessary to pursue economic efficiencies and continually negotiate better contracts for both itself and its customers.[23] Ameren Missouri has also engaged in historical hedging practices in attempt to mitigate fuel price volatility.

12. Fuel prices have recently decreased, and Ameren Missouri has continued to engage in behavior to reduce fuel and purchased power costs. As a result, Ameren Missouri's rate case filing proposed to decrease fuel costs included in base rates by $108 million.[24]

13. The net base energy cost value agreed to by the parties to the first non-unanimous stipulation and agreement is different than that proposed by Ameren Missouri, but nonetheless still represents a marked decrease in fuel operation costs.

IV. **Proposed Conclusions of Law**

1. The FAC statute addresses the increases or decreases in fuel costs that would traditionally not be accounted for until rates are reset in a rate case. The FAC is thus a rate mechanism designed

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[21] Exhibit 200, *Direct Testimony of Lena Mantle*, p. 8.
[22] Exhibit 7, *Rebuttal Testimony of Andrew Meyer*, ER-2019-0335 p. 16 (Jan. 21, 2020).
[23] *Id.* at 8-9; Transcript p. 342-44.
[24] Exhibit 200, *Direct Testimony of Lena Mantle*, p. 4.

to address "regulatory lag." The FAC statute was passed in 2005, effectively overturning a prior Missouri Supreme Court decision holding an FAC to be contrary to Missouri ratemaking law.[25]

2. The FAC statute's language indicates the Missouri General Assembly intended for the Commission to have the discretion to institute incentive mechanisms in conjunction with FAC approvals to ensure that utilities will continue to seek reduced costs and efficiencies even as the FAC secures increasing fuel and operation costs.[26]

3. The FAC statute is a wholly permissive one. It only applies to electric utilities that apply for an FAC, and the Commission retains discretion to approve, modify, or reject any application.[27]

4. Plant-in-service accounting (PISA) treatment is similarly permissive in that it only applies to electric utilities that elect into such treatment.[28] Also, similar to the FAC, PISA is a ratemaking mechanism addressing the delayed recovery of regulatory lag. Utilities electing PISA defer 85% of depreciation expense and return associated with qualifying infrastructure investments in between rate cases.[29]

5. The Missouri General Assembly intends PISA to incentivize capital asset spending.[30] Nonetheless, the 85% limitation on a utility's ability to defer costs represents a legislative compromise intended to adequately secure some regulatory lag as a consumer protection, while still incentivizing capital investments through PISA deferrals.[31]

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[25] *See State ex rel. Utility Consumers Council of Mo., Inc. v. Pub. Serv. Comm'n*, 585 S.W.2d 41 (Mo. banc 1979).
[26] Mo. Rev. Stat. § 386.266.1.
[27] Mo. Rev. Stat. § 386.266.
[28] Mo. Rev. Stat. § 393.1400 (2019).
[29] *Id.*
[30] Exhibit 3, *Rebuttal Testimony of Tom Byrne*, ER-2019-0335 p. 56 (Jan. 21, 2020).
[31] *Report and Order*, EA-2018-0202 p. 6 (Dec. 12, 2018).

V. Argument

A. The Appropriate Sharing Mechanism Between the Company and Customers For Costs Recovered Through Fuel Adjustment Clause is an 85/15 Sharing Ratio.

The appropriate sharing mechanism to include within Ameren Missouri's FAC is an 85/15 split whereby customers pay for 85% of all incremental increases in fuel and purchases power costs, while the Company pays for 15%. When fuel and purchased power costs drop below values set in this rate case, Ameren Missouri would receive 15% of those gains while customers would be credited 85%. This 85/15 sharing mechanism protects customers against increasing fuel costs better than the 95/5 sharing, while still enabling the utility to recover over 98% of its total fuel costs. The OPC's proposal also better incentivizes and rewards economic decision making by enabling the utility to receive 15% of the efficiencies achieved from decreasing fuel and purchase power costs as opposed to the currently allowed 5% through the 95/5 sharing. The 85/15 sharing is rooted in clear guidance from Missouri's Legislature, and creates more certainty that only prudent costs are collected through the FAC given the practical limitations of prudence reviews.

a. A sharing ratio of 85/15 better incentivizes efficient fuel operations than the current practice of 95/5.

From a strictly numerical perspective, the 85/15 sharing better incentivizes efficient fuel operations than the 95/5 sharing. Under the 85/15 sharing, an electric utility enjoys 15% of the positive deferential when fuel and purchase power costs drop below the levels set in the previous rate case.

Currently, the 95/5 sharing rewards a utility with 5%, or less than 1% of all total fuel costs, for efficient behavior. OPC is asking that the Commission triple this incentive as a means to use

market signals to ensure efficient behavior. This is not to accuse Ameren Missouri of any specific inefficient or imprudent behavior. To the contrary, in Ameren Missouri's case the 85/15 sharing should be a more favorable arrangement to the Company than the 95/15 split. Since 2016, Ameren Missouri has been more likely to return money through the FAC due to reduced fuel costs than have an increase.[32] Therefore, if Ameren Missouri had been operating under the 85/15 scenario over the past four years then it should have received more under the 95/5 scenario for the same actions.

In the opposite scenario when costs end up being higher than the net base energy costs that were set in the last rate case, the 85/15 sharing would still enable Ameren Missouri to recover nearly all, over 98%,[33] of its fuel costs including the vast majority of increased costs within and outside of Ameren Missouri's control.[34] This nature of OPC's proposal is key because "an after-the-fact prudence review is not a substitute for an appropriate financial incentive, nor is an incentive provision intended to be a penalty against the company. Rather, a financial incentive recognizes that fuel and purchased power activities are very complex and there are actions [Ameren Missouri] can take that will affect the cost-effectiveness of those activities."[35] This is not to say that Ameren Missouri has engaged in imprudence, but only that, just as the Company has done so in the past, we should expect Ameren Missouri to be able to exploit further efficiencies if it has more incentive to do so.[36]

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[32] *See* Exhibit 202, LM-S-3.
[33] Exhibit 200, p. 8.
[34] Exhibit 202, p. 5.
[35] *Report and Order*, ER-2008-0318 p. 72.
[36] Exhibit 200, p. 5.

An 85/15 sharing also better maximizes on a public utility's inherit profit-seeking because it more resembles regulatory lag.[37] In a pure regulatory lag scenario with no FAC, "the utility [has] a strong incentive to maximize its income and minimize its costs."[38] This is because in such a scenario the utility recoups all of the benefits of reducing fuel and purchased power costs. The 95/5 sharing negates nearly all of the regulatory lag benefits by providing companies with little incentive to put forth any effort to decrease costs. The 85/15 sharing is of course not a return to a pure regulatory lag state, but compared to 95/5, it is a marked departure from providing Ameren Missouri with next to nothing when it reduces costs.

b. A sharing ratio of 85/15 is based on foundational guidance from the Missouri Legislature on how the amount of sharing is appropriate within ratemaking mechanisms between customers and their utility, whereas the past 95/5 sharing ratios are based on regulatory happenstance, and deference to the status quo.

Unlike the 95/5 sharing mechanism, OPC's proposal is supported by the record and legislative guidance. The ultimate genesis of the 95/5 sharing ratio is not the FAC statute or other concrete prescription. Instead, this Commission's predecessors crafted the ratio out of whole cloth in 2007.[39] There was at least foundation for some type of sharing mechanism, as the previous Commission noted "after-the-fact prudence reviews alone are insufficient to assure [that electric utilities] will continue to take reasonable steps to keep its fuel and purchased power costs down."[40] The Commission decided then that the risk of paying for 5% of increased FAC costs would

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[37] *See Report and Order*, ER-2007-0002 p. 18 (discussing the merits of regulatory lag as it aligns a utility's profit incentive with the public policy goal of reducing fuel costs).
[38] *Report and Order*, ER-2007-0002 p. 18.
[39] *Report and Order*, ER-2007-0002 p. 18
[40] *Report and Order*, EO-2007-0004, p. 54 (May 17, 2007).

encourage those reasonable steps. However, the 95/5 ratio was not sponsored by any party to that earlier proceeding, and no party has since demonstrated that the 95/5 ratio is sufficient to induce efficient fuel operations.[41] The 95/5 has since been merely "accepted" by other parties.[42]

The OPC's proposed 85/15 instead looks to what the Legislature deemed would provide a sufficient prudent spending incentive within its most recently created rate mechanism: PISA. Both PISA and the FAC address cost recovery delayed by regulatory lag. They are then both statutory exceptions to general ratemaking principles. The FAC targets fuel and purchased power costs,[43] while PISA allows deferrals for qualifying capital spending.[44] When Missouri's Legislature enacted the FAC, it gave the Commission discretion to create "incentives to improve the efficiency and cost-effectiveness" of electric utility fuel activities.[45] The Legislature was otherwise silent on how much sharing is appropriate in a mechanism designed to recoup regulatory lag. But the General Assembly has not remained silent on what incentivizes prudence.

The Legislature most recently deliberated on the amount of sharing necessary to include in a ratemaking mechanism in 2018 with PISA's passage.[46] The Legislature agreed that 85/15 is the ratio that would balance the goal of incentivizing increased capital expenditures, while still protecting ratepayers' interests.[47] There is no other express guidance on what sharing is appropriate to balance incentives with customer protections in any ratemaking mechanism. The FAC statute still retains its grant of discretion to this Commission on designing an incentive mechanism for the FAC, but OPC's point is not that PISA and an FAC's sharing ratio can never differ or that the

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[41] *Surrebuttal Testimony of Lena Mantle*, ER-2019-0335 p. 3 (Feb. 14, 2020).
[42] *E.g.*, *Rebuttal Testimony of Tom Byrne*, p. 56.
[43] Mo. Rev. Stat. § 386.266.
[44] Mo. Rev. Stat. § 393.1400.
[45] Mo. Rev. Stat. § 386.266.1.
[46] Mo. Rev. Stat. § 393.1400.
[47] *See Direct Testimony of Lena Mantle*, p. 9.

Commission has lost discretion. Rather, absent justification to the contrary, the legislative compromise that produced the 85/15 PISA split is the clear baseline for what this State believes is a necessary incentive for ratemaking mechanisms.

c. A sharing ratio of 85/15 better ensures that customers are only paying for prudent fuel costs, while that security cannot be guaranteed under current prudency review procedures.

OPC's proposed 85/15 sharing within the FAC is additionally supported by real concerns regarding the practical limitations of the prudence review process. OPC is not claiming any specific imprudence on Ameren Missouri's part. Rather, for the aforementioned reasons, the 95/5 sharing does not adequately incentivize prudent behavior, and therefore the only real sureties against imprudent actions is the prudence review process. Given the unfortunate reality of the prudence review process not being able to verify every action or cost within the FAC though, it is good policy to provide more assurance that the FAC is only covering prudent actions by incentivizing those actions more on the front end rather than just waiting to catch them on the back end. After all, "regulatory reviews are only a partial substitute for the direct incentives that can result from a utility's quest for profit."[48]

Ameren Missouri witness Andrew Meyer claims that the "prudence review process is exactly the proper venue for reviewing the Company's coal unit commitment practices," but practical reality leaves OPC skeptical of that claim.[49] FAC prudence reviews are handled by Energy Resources Department group within the Staff of the Public Service Commission (Staff).[50]

[48] *Report and Order*, ER-2007-0002 p. 19 (May 22, 2007).
[49] Exhibit 202, p. 8.
[50] Transcript p. 369.

FAC prudence reviews occur every eighteen months,[51] and every review period must be completed in six months for every company with an FAC.[52] This review period requires an audit of "voluminous" documents for each particular FAC issue.[53] During that six month FAC prudence review, the Energy Resources Department is also involved with renewable energy standard prudence reviews, energy efficiency program prudence reviews, general rate case auditing, and internal administrative duties.[54] One need only turn to the table of contents of Staff's latest prudence review of Ameren Missouri's FAC to see that Staff reviewed at least eighteen separate FAC prudence issues.[55]

This discussion is not an indictment of Staff, but rather a reflection of the unfortunate reality of economic regulation: it requires a lot of work to get right, and it cannot catch everything. Consider just the single issue of coal unit self-commitment. The Sierra Club accused Ameren Missouri of incurring over $300 million in losses due to the Company allegedly committing its units into the Midwest Intercontinental Service Operator (MISO) market without considering market price.[56] Evaluating the Sierra Club's prior claims requires a review of MISO's market data and an intense scrutiny of Ameren Missouri's energy generation data. A scrutiny so intense that the Commission's filing system is simply not able to accept the data at issue.[57] The expansive nature of the available data alone undermines the effectiveness of any prudence review, but there is the compounding concern that not all data could ever be available. As Staff itself warns the

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[51] Mo. Rev. Stat. § 386.266.5(4).
[52] Transcript p. 371.
[53] Transcript p. 382-83.
[54] *Id.* at 370-71.
[55] *Staff Report*, EO-2019-0257 (Aug. 29, 2019).
[56] Exhibit 550, *Direct Testimony of Avi Allison*, ER-2019-0335 p. 9 (Dec. 4, 2019).
[57] Transcript of Proceedings, On-the-Record Presentation, ER-2019-0335 p. 235 (Mar. 4, 2020).

Commission, "it is highly unlikely that any party other than SPP or MISO have the raw data, modeling software access, and resources to conduct such an extensive analysis of market trends."[58]

Even granting Ameren Missouri the benefit of the doubt that it is not self-committing in an imprudent manner, the practical limitations of the prudence review to evaluate self-commit issues does not instill confidence for the future. Therefore, we must rely upon the FAC's efficiency incentive to forestall self-commit issues. However, it is doubtful that the 95/5 sharing prevents imprudent self-commit practices because there is very little financial impact to a utility that self-commits units into a regional transmission market when it is not cost effective to do so.[59]

Imagine a scenario where a utility is imprudently self-committing coal units. Under the 95/5 sharing, it would recover 95% of the fuel cost increases due to its self-commitments, and then risk a disallowance in a later prudence review. Said prudence review simply cannot adequately review the self-commitment issue though as Staff admits. This limitation presents a perverse incentive to an electric utility where it may rather self-commit to receive 95% of FAC cost increases rather than prudently commit its units to attain 5% of any FAC cost decreases. To be clear, this review is not meant to impugn any particular Ameren Missouri or Staff behavior, but merely reflect the inherent incentive limitations in the 95/5 sharing to demonstrate why a greater incentive is necessary.

Although no longer a dispute in this case, it is also worth revisiting Ameren Missouri's position on affiliate transactions to measure whether the 95/5 sharing provides an adequate incentive to reduce fuel costs. When testifying against OPC witness Robert Schallenberg's recommended disallowance of affiliate transaction costs, Ameren Missouri witness Tom Byrne

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[58] Exhibit 114, *Rebuttal Testimony of Shawn Lange*, ER-2019-0335 p. 4 (Jan. 21, 2020) (citations omitted).
[59] Exhibit 202, p. 5.

describes 0.067% of Ameren Missouri's revenue requirement to be "very small"[60] and of "no material level."[61] Applying that percentage to Ameren Missouri's approximately $3 billion initially proposed annual revenue requirement,[62] produces a figure a little greater than $2 million. Byrne describes the $42 million figure that Ameren Missouri did not recover through the FAC over the past ten years as "huge" and "relevant" when judging the 95/5 sharing incentive.[63] However, that is only approximately $4 million a year; less than twice the monetary value of the "very small" 0.067% of Ameren Missouri's revenue requirement. If $2 million a year is very small to a utility with Ameren Missouri's revenue, why is $4 million a sufficient incentive to induce any behavior? The 95/5 sharing is simply not an adequate incentive, and thus this Commission should be confident to reconsider what sharing percentage would produce a more adequate incentive.

VI. Conclusion

A sharing of 85/15 is a more appropriate efficiency incentive for the FAC than the current 95/5. Under an 85/15 sharing, the incentive to reduce fuel and purchase power costs, and the potential gains therefrom, is tripled relative to the 95/5 sharing. Simultaneously, the 85/15 sharing

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[60] Ameren Missouri disputed OPC's representation of Byrne's testimony at the evidentiary hearing. Byrne's testimony was responding to Schallenberg's recommendation to disallow approximately $218 million in costs attributable to Ameren Services Company (AMS), and argued that the first fact the Commission should consider when evaluating Schallenberg's claim was that "Ameren Missouri has no material level of transactions with unregulated affiliates." Exhibit 3, p. 2-3. Byrne claimed at the evidentiary hearing that this portion of his testimony was referring to "affiliates other than AMS," specifically those affiliates that are not "regulated." Transcript p. 359. Taking Byrne's explanation as true, it is not clear why Byrne raised this materiality argument first, or even at all, in response to Schallenberg, especially when his testimony also describes Ameren Illinois, Ameren Transmission Company of Illinois, and Ameren Transmission Corporation as "regulated affiliates." Exhibit 3, p. 3. His explanation at the evidentiary hearing attempts to attribute his "no material level" quote to non-regulated affiliates, but only regulated affiliates are identified. Regardless, Byrne's testimony speaks for itself, and his attribution of 0.067% as "small" should be plain and indisputable enough for discussion purposes.

[61] Exhibit 3, p. 2-3.

[62] Exhibit 11, *Direct Testimony of Laura Moore*, ER-2019-0335 LMM-D16 ().

[63] Transcript p. 358.

alleviates regulatory lag by ensuring that an electric utility receives over 98% of all of its prudent fuel and purchased power costs while providing the opportunity, if it reduces its costs, to keep more of its fuel and purchased power costs efficiencies. The 85/15 sharing is then a better incentive than the 95/5 mechanism, while still meeting the FAC's goal of addressing regulatory lag. The 85/15 sharing is also based on guidance from the Missouri Legislature's experience with PISA as to how much incentive is appropriate to protect consumers from imprudent costs. Changing the sharing percentages from 95/5 to 85/15 also complements the FAC prudence review process by addressing inherent structural flaws in the former sharing mechanism.

WHEREFORE, the OPC requests that this Commission order an 85/15 sharing mechanism as an efficiency incentive to be included within Ameren Missouri's FAC.

Respectfully,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served, either electronically or by hand delivery or by First Class United States Mail, postage prepaid, on this 30th Day of March, 2020, with notice of the same being sent to all counsel of record.

/s/ Caleb Hall