BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of Union Electric Company d/b/a Ameren Missouri's Tariffs to Adjust its Revenues for Electric Service	)))	**File No. ER-2021-0240** Tracking Nos. YE-2021-0175 and YE-2022-0076

REPORT AND ORDER

Issue Date: February 2, 2022

Effective Date: February 12, 2022

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REPORT AND ORDER

Procedural History

On March 31, 2021, Union Electric Company d/b/a Ameren Missouri (Ameren Missouri or "the Company") filed tariff sheets designed to implement a general rate increase for electric service. As filed, the tariff sheets would have increased Ameren Missouri's annual electric revenues by approximately $299 million, which amounts to a twelve percent increase in its overall revenue requirement.

The Commission suspended Ameren Missouri's general rate increase tariff sheets until February 28, 2022, the maximum amount of time allowed by the controlling statute.[1] The following parties filed applications and were allowed to intervene: Midwest Energy Consumers Group (MECG); Missouri Industrial Energy Consumers (MIEC); Renew Missouri Advocates d/b/a Renew Missouri; Legal Services of Eastern Missouri, Inc.; Consumers Council of Missouri; Sierra Club; and the Natural Resources Defense Council.

The Commission established the test year for this case as the 12-month period ending December 31, 2020, trued-up for known and measurable revenue, rate base, and expense items through September 30, 2021. The Commission also established a procedural schedule leading to an evidentiary hearing.

During the week of October 5 to October 8, 2021, the Commission held five local public hearings. The local public hearings were held by WebEx, an audio and visual teleconferencing application. During the local public hearings the Commission heard from members of the public and also received numerous written comments.

[1] Section 393.150, RSMo (2016). (All statutory references are to the Revised Statutes of Missouri 2016, unless otherwise noted.)

The parties prefiled direct, rebuttal, and surrebuttal testimony, as well as true-up direct testimony. On November 24, 2021, before the start of the evidentiary hearing, the parties filed a unanimous stipulation and agreement that resolved all issues in the case related to Ameren Missouri's revenue requirement. On December 6, 2021, the parties filed a second unanimous stipulation and agreement that resolved certain additional issues. Both stipulations and agreements were approved by the Commission on December 22, 2021, in an order that became effective on January 4, 2022. The Commission need not further address the issues that were resolved in the approved stipulations and agreements.

The evidentiary hearing to address the issues that were not resolved by the stipulations and agreements was conducted on December 9, 2021. The parties filed post-hearing briefs on December 28, 2021, and reply briefs on January 7, 2022.[2] This Report and Order addresses those remaining issues.

Pending Motions:

(1) On January 7, 2022, the Commission's Staff (Staff) filed, along with its reply brief, a motion asking the Commission to strike a statement from the initial brief filed by MECG. Staff argues a statement in MECG's brief that asserts the parties failed to reach a settlement addressing the method for allocating revenue in this case due to the unwillingness of Staff and Public Counsel to address what MECG describes as a "lingering residential subsidy," should be struck as "impertinent, irrelevant, lacking in any evidentiary basis, and highly prejudicial." Staff's motion further asserts that settlement

[2] The case is considered submitted as of the date of the final brief. 20 CSR 4240-2.150(1).

agreements are privileged and inadmissible as evidence under Commission Rule 20 CSR 4240-2.090(7). No party responded to Staff's motion.

Commission Rule 20 CSR 4240-2.090(7) does indeed provide that facts disclosed in settlement negotiations and settlement offers are privileged and are not to be used against participating parties unless fully substantiated by other evidence. However, the challenged statement in MECG's brief does not disclose or otherwise rely on any settlement offers or facts disclosed in settlement negotiations. Instead, it simply attempts to place blame for the failure to reach a settlement on Staff and Public Counsel. That attempt at finger-pointing is a particularly ineffective argument, but it does not violate the provisions of Commission Rule 20 CSR 4240-2.090(7). Staff's motion to strike will be denied.

(2) MIEC filed a single post-hearing brief on January 18, 2022, substantially after reply briefs were to be filed on January 7, 2022. Along with its brief, MIEC filed a motion seeking leave to file that brief out of time. The motion explained that the delay in filing was cause by the severe illness of counsel and her family. No other party has responded to MIEC's motion. The late filing of MIEC's brief has not prejudiced any other party and the Commission will grant the motion to file that brief out of time.

<u>General Findings of Fact</u>

1. Ameren Missouri is an investor-owned electric utility providing retail electric service to large portions of Missouri.

2. Ameren Missouri served 1,286,072 customers at the time it filed its rate increase tariff.[3]

[3] Minimum Filing Requirements, Schedule 3.

3. The Office of the Public Counsel (Public Counsel) is a party to this case pursuant to Section 386.710(2), RSMo, and by Commission Rule 20 CSR 4240-2.010(10).

4. Staff is a party to this case pursuant to Commission Rule 20 CSR 4240-2.010(10).

General Conclusions of Law

A. Ameren Missouri is a public utility, and an electrical corporation, as those terms are defined in Subsections 386.020(15) and (43), RSMo (Supp. 2020). As such, Ameren Missouri is subject to the Commission's jurisdiction pursuant to Chapters 386 and 393, RSMo.

B. The Commission's subject matter jurisdiction over Ameren Missouri's rate increase request is established under Section 393.150, RSMo.

C. Section 393.150, RSMo, authorizes the Commission to suspend the effective date of a proposed tariff for 120 days beyond the effective date of the tariff, plus an additional six months.

D. Ameren Missouri can charge only those amounts set forth in its tariffs.[4]

E. Subsection 393.140(11), RSMo, gives the Commission authority to regulate the rates Ameren Missouri may charge its customers for electric service.

F. Utilities are required to provide safe and adequate service.[5]

G. In determining the rates Ameren Missouri may charge its customers, the Commission is required to determine whether the proposed rates are just and reasonable.[6]

[4] Sections 393.130 and 393.140, RSMo.
[5] Sections 393.130 and 393.140, RSMo.
[6] Section 393.150.2, RSMo.

H. Ameren Missouri has the burden of proving its proposed rates are just and reasonable, pursuant to Section 393.150.2, RSMo: "[a]t any hearing involving a rate sought to be increased, the burden of proof to show that the increased rate or proposed increased rate is just and reasonable shall be upon the … electrical corporation . . . ."

I. In order to carry its burden of proof, Ameren Missouri must meet the preponderance of the evidence standard.[7] In order to meet this standard, the Company must convince the Commission it is "more likely than not" that Ameren Missouri's proposed rate increase is just and reasonable.[8]

J. Witness credibility is solely a matter for the fact-finder, "which is free to believe none, part, or all of the testimony."[9]

K. An administrative agency, as fact finder, also receives deference when choosing between conflicting evidence.[10]

L. Where a decision of the Commission rests on the exercise of regulatory discretion, a reviewing court will not substitute its judgment for that of the Commission, particularly on issues within its area of expertise.[11]

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[7] *Bonney v. Environmental Engineering, Inc.*, 224 S.W.3d 109, 120 (Mo. App. 2007).
[8] *Holt v. Director of Revenue, State of Mo*., 3 S.W.3d 427, 430 (Mo. App. 1999).
[9] *State ex rel. Public Counsel v. Missouri Public Service Com'n*, 289 S.W.3d 240, 247 (Mo. App. 2009).
[10] *State ex rel. Missouri Office of Public Counsel v. Public Service Com'n of State*, 293 S.W.3d 63, 80 (Mo. App. 2009).
[11] *State ex rel. Missouri Gas Energy v. Public Service Com'n*, 186 S.W.3d 376, 382 (Mo. App. 2005).

The Issues

The parties numbered the issues before the settlement of many of those issues in the stipulations and agreements. In their briefs, the parties continue to refer to the unsettled issues by their original numbers. For the clarity of this order, the unsettled issues have been renumbered sequentially. The original numbers are identified in [brackets].

1. [17] Residential Time-of-Use Rates

A. Should the Company be required to change the names of its Time-of-Use rate plans?

Findings of Fact:

5. The stipulation and agreement that resolved Ameren Missouri's previous rate case required the company to implement five rate schedules for residential service.[12] The five rate schedules offer customers a range of time-of-use options that offer varying load shift savings potentials.[13]

6. The five residential rate schedules are established in Ameren Missouri's current tariff.[14] The existing "Basic Service" rate, which Ameren Missouri has renamed the "Anytime Users" rate in its marketing materials, does not have any time of use features. "Daytime/Overnight Service" that Ameren Missouri has renamed "Evening/Morning Savers" rate, charges a slightly lower rate for usage during evening and nighttime hours. "Time of Use Service" that Ameren Missouri has renamed "Overnight Savers," includes a moderate price differential. "Time-of-Use Smart Savers," which Ameren Missouri has not renamed, features a larger pricing differential. Finally, "Ultimate

[12] Wills Direct, Exhibit 17, Pages 4-5, Lines 22-23, 1.
[13] Wills Direct, Exhibit 17, Page 5, Table 1.
[14] A list of the names of the residential rates is found in Ameren Missouri's tariff at Mo. P.S.C. No. 6, 3rd Revised Sheet No. 53.

Saver Service," which Ameren Missouri has not renamed, has a large price differential and includes a demand charge.[15]

7. Ameren Missouri proposes to change the names in its tariff to match the names it is using in its customer marketing materials.[16]

8. Staff, supported by Public Counsel, take issue with the names that Ameren Missouri has chosen for marketing its time-of-use rates. Staff and Public Counsel express concern that the names are not descriptive and portray the rate schedules as money-saving opportunities without describing the risk of bill increases that may result from the rates. Staff and Public Counsel recommend adoption of more objective or informative names for Ameren Missouri's use in education and promotional materials.[17]

9. Staff does not offer any specific alternative names for Ameren Missouri's rates, but suggests they be described by generic names such as rates A, B, C, D, and E, or 1, 2, 3, 4, and 5.[18] Public Counsel suggests the rates be named for colors.[19]

10. Neither Staff, nor Public Counsel had any specific concerns about Ameren Missouri's efforts to educate customers about time-of-use rates aside from their choice of names and an admonition to adopt less marketing and more education,[20] and Public Counsel's witness, Dr. Geoffrey Marke, acknowledged at the hearing that Ameren Missouri has done a "pretty good job" in their marketing.[21]

[15] The residential rate plans are summarized at Wills Direct, Exhibit 17, Page 5, Table 1.
[16] Wills Direct, Exhibit 17, Page 5, Footnote 2.
[17] Staff Report, Class Cost of Service, Exhibit 205, Page 53, Lines 5-11.
[18] Transcript, Page 285, Lines 15-25.
[19] Marke Rebuttal, Exhibit 402, Pages 22-23, Lines 24-25, 1-5
[20] Transcript, Page 282, Lines 18-21.
[21] Transcript, Page 267, Lines 9-10.

11. Time-of-use rates may allow customers to save money on their electric bill by charging higher rates during on-peak usage times, and lower rates during off-peak usage times. Customers who adjust their electric usage to avoid on-peak (high rate) periods may save money. Conversely, customers who adopt a more aggressive time-of-use rate, but who do not adjust their electric usage could incur a higher electric bill.[22]

12. Most Ameren Missouri customers are currently served through an Automated Meter Reading (AMR) meter. All such customers are served at the Basic/Anytime User rate, which does not have a time-of-use component. Ameren Missouri is in the process of replacing its AMR meters with Advanced Metering Infrastructure (AMI) meters, which will have the capability of supporting a time-of-use rate. Once a customer has an AMI meter, they will be defaulted into the Evening/Morning Savers rate after six months. Each customer also has the choice to opt into any of the time-of-use rates, or go back to the Basic/Anytime User rate at any time after their AMI meter is installed.[23]

13. Customers who are asked to choose between these rates are given much more than just the name of the programs to help them decide which rate is best for them. Ameren Missouri witness, Steven M. Wills, described the customer educational process in his direct testimony. Customers will receive multiple educational materials, including descriptions of the available rates both before and after the installation of an AMI meter. At five months after installation, customers will get a mailer that includes a customized bill comparison to illustrate the potential impacts of the various time-of-use rates on their bill

[22] Wills Direct, Exhibit 17, Pages 5- 6, Lines 9-10, 1-5.
[23] Wills Direct, Exhibit 17, Page 7, Lines 1-7.

given their own historical consumption pattern. They will also receive a tear-off postcard that will allow them to opt out of defaulting to the Evening/Morning Savers rate if they are not comfortable making a change at that time. At month six, the customer will receive a bill insert notifying them that their next bill will be on the Evening/Morning Savers rate, and again directing them to the Company's website for options to select another rate if they prefer to do so.[24]

14. The choice of names for Ameren Missouri's time-of-use rates is important to encourage customers to explore the use of such rates with a goal of saving money on their electric bill by consuming less when electric costs are high, and more when those costs are low. The notion of saving money on their electric bill is key to getting customers to undertake the required behavior modifications.[25] Generic names, as proposed by Staff and Public Counsel, do not attract customers to time-of-use rates since they do not suggest a savings opportunity for customers. Unless the time-of-use rates have attractive names, few people will adopt them and the very purpose of deploying time-of-use rates will be defeated.[26]

15. At the time of the hearing, Ameren Missouri had 201,474 customers on the Evening/Morning Savers rate, 248 customers on the Overnight Savers rate, 157 on the Smart Savers rate, and 143 on the Ultimate Saver rate.[27] At that time, 29,732 Ameren Missouri customers with an AMI meter had opted to return to the Basic Service/Anytime User rate.[28]

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[24] Wills Direct, Exhibit 17, Pages 10-11, Lines 7-21, 1-8.
[25] Faruqui Rebuttal, Exhibit 73, Page 4, Lines 1-5.
[26] Faruqui Rebuttal, Exhibit 73, Page 5, Lines 18-22.
[27] Transcript, Page 295, Lines 3-17.
[28] Transcript, Page 298, Lines 12-21.

16. Customers who have received AMI meters and the subsequent rate educational materials have started to learn the rate options by name. Renaming the rate options at this time would create confusion and would set back the company's rate education efforts.[29] Changing names would also require retraining of call center and other Ameren Missouri employees that have already been educated about the time-of-use rate options.[30]

Conclusions of Law:

There are no additional conclusions of law for this issue.

Decision:

Ameren Missouri has implemented residential time-of-use rates and it has chosen names for those rates with an eye to encouraging its customers to thoughtfully consider whether taking service under a time-of-use rate is in their best interest. In doing so, the company has chosen names that suggest that customers may be able to save money on their electric bill through a time-of-use rate. The Commission has encouraged Ameren Missouri to offer these rates and continues to believe that time-of-use rates will benefit both Ameren Missouri and its customers. The Commission wants Ameren Missouri's customers to sign up for appropriate rates. The concerns expressed by Staff and Public Counsel about the names Ameren Missouri has chosen to use to describe its existing time-of-use rates appear to be misplaced.

The Commission certainly agrees that Ameren Missouri needs to undertake a serious educational program to explain the operation of those rates to customers who will need to decide which rate will work best for them. Fortunately, there is no indication that

[29] Wills Rebuttal, Exhibit 18, Page 46, Lines 7-12.
[30] Wills Rebuttal, Exhibit 18, Page 49, Lines 5-8.

Ameren Missouri has failed to do so. Instead, Ameren Missouri has a solid plan in place to educate its customers about their choices and the potential risks and rewards associated with the various time-of-use rates. Customers are provided with extensive information about which plan may be right for their household and there is no reason to believe that they will be misled by a descriptive name attached to those plans.

Staff's brief points out that Ameren Missouri did not seek approval from the Commission before deciding to use modified names for its tariffed rates in its communications with its customers about its time-of-use rates. Staff does not cite any provision of law that would require Ameren Missouri to take either step before communicating those alternative names to its customers. Furthermore, requiring Ameren Missouri to change the names it has assigned to its time-of-use rate at this time would require it to revamp its educational materials, retrain its employees, and once again explain their options to its customers. Such a change would add expense and foster confusion. The Commission will not require Ameren Missouri to rename its time-of-use rates.

2. [22] Class Cost of Service, Revenue Allocation, and Rate Design

A. [C] How should any rate increase be allocated to the several customer classes?

Findings of Fact:

17. Ameren Missouri's cost to serve its customers is not the same for all those customers. That cost can vary significantly between customers depending upon the facilities required to serve that customer and the nature of their use of the electric

system.[31] Both the total quantity of electricity used over time by a customer - the amount of "energy" used by the customer, measured in kilowatt-hours (kWh) - and the rate the customer uses that electricity - the "demand", measured in kilowatts (kW) – vary significantly between customers.[32]

18. It would not be practical for Ameren Missouri to determine the cost of providing service to each individual customer, so customers are divided into various customer classes for the purpose of establishing rates. Ameren Missouri currently serves the following rate classes of customers:

- Residential or 1(M);
- Small General Service or 2(M);
- Large General Service or 3(M);
- Small Primary Service or 4(M);
- Street and Outdoor Lighting;
    - Company-Owned or 5(M)
    - Customer-Owned or 6(M)

and

- Large Primary Service or 11(M).[33]

19. The Residential class is comprised of customer homes. On average, a home would have a demand of around 5 kW. The Small General Service class includes any non-residential account whose maximum demand is less than 100 kW, which means a small business such as a small office or retail outlet. The Large General Service class

[31] Hickman Direct, Exhibit 30, Page 5, Lines 11-13.
[32] Brubaker Direct, Exhibit 500, Pages 4-5, Lines 24-25, 1-2.
[33] Hickman Direct, Exhibit 30, Page 6, Lines 5-9.

includes larger businesses with a demand over 100 kW, such as a grocery store or larger chain store. The Small Primary Service class includes customers who take service at a higher voltage than the Large General Service class, but at a similar demand. It would include larger commercial and industrial customers. The Large Primary Service class includes large commercial and industrial customers who take service at a higher voltage with over 5 megawatts of demand.[34]

20. In order to better determine the cost for Ameren Missouri to serve each customer class, several parties presented Class Cost of Service Studies. Ameren Missouri presented a Class Cost of Service Study, performed by Thomas Hickman.

21. Generation (production) plant comprises more than half of Ameren Missouri's total plant investment. For allocation of that investment, Ameren Missouri used the 4 NCP (non-coincident peak) version of the A (average) & E (excess) demand methodology.[35]

22. Ameren Missouri's Class Cost of Service Report showed that the Residential class was providing somewhat less than its indicated share of Ameren Missouri's revenue and that the Large Primary Service class was providing somewhat more than its share of revenue.[36]

23. The approved stipulations and agreements in this case will result in an 8.81 percent rate increase for all rate classes if allocated on an equal percentage basis.[37] If the rate for the Residential class were to be increased to its cost of service under Ameren Missouri's Class Cost of Service Study, it would need to be increased by a total of

[34] Transcript, Pages 305-307.
[35] Hickman Direct, Exhibit 30, Page 19, Lines 5-8.
[36] Hickman Direct, Exhibit 30, Page 2, Table 1.
[37] Transcript, Page 331, Lines 9-11.

approximately 17.2 percent.[38] In contrast, if the Large Primary Service class were to be fully moved to its cost of service under Ameren Missouri's Class Cost of Service Study its rates would be reduced by 3 percent.[39]

24. Ameren Missouri does not propose to adjust its rates to address that discrepancy. Instead, Ameren Missouri proposes to make a small revenue-neutral adjustment within the Customer-Owned Lighting class to address a large disparity in the revenues collected from that lighting class. Aside from that adjustment, Ameren Missouri would allocate the necessary rate increase to all customer classes on an equal percentage basis.[40]

25. MIEC presented a Class Cost of Service Study performed by its witness. Maurice Brubaker. Like Ameren Missouri's study, MIEC's Class Cost of Service Study also used a 4 NCP A&E method.[41] MIEC's study differs in some details from that presented by Ameren Missouri,[42] but like Ameren Missouri, MIEC found that the residential class was below the system average rate of return, while the Large Primary Service class was currently producing an above system-average rate of return. According to MIEC's Class Cost of Service Study, the Residential class would require an increase of 7.8 percent, above the overall rate increase, to move to its mathematical cost of service. All the other classes would receive a rate decrease, before being offset by the overall rate increase. The Large Primary Class would require the largest rate decrease of 10.8 percent to move to its cost of service.[43]

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[38] Transcript, Page 331, Lines 12-17.
[39] Transcript, Pages 330-331, Lines 22-25, 1-2. *Describing*, Harding Direct, Exhibit 44, Page 5, Table 2.
[40] Harding Direct, Exhibit 44, Pages 5-6, Lines 8-13, 1-2.
[41] Brubaker Direct, Exhibit 500, Page 27, Lines 23-24.
[42] Brubaker Direct, Exhibit 500, Pages 31-35
[43] Brubaker Direct, Exhibit 500, Page 40, Lines 1-13.

26. Unlike Ameren Missouri, MIEC does not advocate for an across-the-board equal percentage revenue percentage increase. Rather MIEC recommends all classes be moved 50 percent toward their calculated cost of service.[44] Under MIEC's proposal, using the results of Ameren Missouri's Class Cost of Service Study, the Residential class would receive an additional increase of 4.1 percent on top of the overall 8.8 percent increase for a total increase of 12.9 percent. The Large Primary rate class would receive a rate decrease of 5.3 percent to reach its cost of service, subtracted from the overall 8.8 percent increase resulting in a net rate increase of only 3.5 percent.[45]

27. MECG presented a Class Cost of Service study prepared by its witness Steve Chriss. MECG also proposed to use a 4 NCP A&E allocation method, with results closely resembling the results of Ameren Missouri's study.[46]

28. MECG urges the Commission to allocate the rate increase among the rate classes in a way that moves all classes closer to their class cost of service. Specifically, MECG advocates the Commission apply half the difference between the approved revenue requirement and the revenue requirement requested by Ameren Missouri in its initial tariff filing to reduce the current over-class-cost-of-service-rates for the larger rate classes, with the other half being used to reduce the rate of all rate classes equally.[47]

29. Staff presented a Class Cost of Service Study prepared by its witness, Sarah Lange. Staff's study concluded that most rate classes were generally contributing appropriately to Ameren Missouri revenue requirement within a reasonable range and

[44] Brubaker Direct, Exhibit 500, Schedule MEB-COS-6.
[45] Brubaker Surrebuttal, Exhibit 502, Schedule MEB-COS-SUR-2.
[46] Chriss Direct, Exhibit 750, Page 21, Lines 2-8.
[47] Chriss Direct, Exhibit 750, Pages 27-28, Lines 10-19, 1-3.

that application of a system-average rate increase to all rate classes would be appropriate.[48]

30. As MECG explains in its brief, what it describes as the "residential subsidy" whereby the Residential class contributes less than its calculated cost of service, is not a new situation. The Commission has taken steps in the last seven Ameren Missouri rate cases to move the classes closer to their calculated cost of service.[49] In the last rate case in particular, which resulted in a rate reduction for Ameren Missouri, the larger rate classes were provided more favorable rate treatment than were the Residential and Small General Service rate classes, meaning the larger classes received a larger rate reduction than did the smaller classes.[50]

31. A table presented on page 23 of MECG's witness Steve Chriss' direct testimony shows the rate of return percentage calculated for the Large General Service and Small Primary Service rate classes going back to Ameren Missouri's 2007 rate case, ER-2007-0002.[51] That table also shows the rate of return index value for those rate classes in each rate case. As Chriss explained at the hearing, the rate of return index value is the relationship of the rate of return for a particular rate class compared to the company's total rate of return. Parity of the two would be an index value of 1.00. Values above 1.00 would indicate the rate class is subsidizing other classes. Values below 1.00 would indicate the class is being subsidized.[52] The rate of return index value for the

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[48] Staff Report Class Cost of Service, Exhibit 205, Page 46, Lines 7-11.
[49] Initial Post hearing Brief of Midwest Energy Consumers Group, Pages 21-22. The rate cases are: ER-2019-0335; ER-2016-0179; ER-2014-0258; ER-2012-0166; ER-2011-0028; ER-2010-0036; and ER-2008-0318.
[50] Transcript, Pages 369-370, Lines 4-25, 1-17.
[51] Chriss Direct, Exhibit 750, Page 23, Table 5.
[52] Transcript, Pages 394-395, Lines 17-25, 1-3.

present case is shown as 1.54, which is the lowest index value on the chart going back to 2007.[53]

32. The class cost of service studies presented by the various parties are simply a "snap-shot" in time showing cost of service that the time they were prepared. They do not indicate whether any disparities in rate of return collected from the rate classes will grow or decrease in the future.[54]

33. The various class cost of service studies are only the starting point for the Commission's decision about allocation of the rate increase among the rate classes. Other factors, such as rate stability and public acceptance must also be considered.[55] Such studies are a guide for setting rate class revenue requirements but should not be solely relied upon to set those requirements.[56]

34. Recent years have been difficult for low-income members of the Residential class. The on-going COVID-19 pandemic and its attendant economic disruptions have hurt many Missouri households, and access to affordable household energy is essential for maintaining good health.[57]

35. In 2020, more than 69,000 Missouri households lived below 200 percent of the Federal Poverty Level. That number will likely increase in 2021 reflecting the impact of the pandemic.[58] Low-income households pay an average of 46 percent of their gross income toward housing and energy costs. Households at 50 percent of the Federal

[53] Transcript, Page 395, Lines 8-14.
[54] Transcript, Page 336, Lines 10-15.
[55] Harding Direct, Exhibit 44, Page 6, Lines 10-13.
[56] Staff Report, Class Cost of Service, Exhibit 205, Page 47, Lines 3-6.
[57] Hutchinson Direct, Exhibit 700, Page 4, Lines 7-19.
[58] Hutchinson Direct, Exhibit 700, Page 6, Lines 13-15.

Poverty Level may pay up to 54 percent of their income just for energy.[59] In addition, inflation has surged in 2021, and is at a 30-year high.[60]

36. In light of these facts, Public Counsel suggested that if the Commission did not order an equal percentage increase for all rate classes, it could choose to cap the increase for the Residential class at 5 percent and at 7.1 percent for the Small General Service class.[61] Such a cap would require an increase in the rates paid by the other classes of roughly 15 percent.[62]

37. Ameren Missouri's election of Plant-In-Service-Accounting under Section 393.1400, RSMo, subject it to a rate cap provision that restricts its rates from rising more than a specified compound annual growth rate for all customers, with a separate, lower compound annual growth rate applicable to just the Large Primary Service class.[63] Those rate caps will not be reached in this case.[64]

Conclusions of Law:

M. Section 393.130, RSMo 2016 states;

> No … electrical corporation … shall make or grant any undue or unreasonable preference or advantage to any person, corporation or locality, or to any particular description of service in any respect whatsoever, or subject any particular person, corporation or locality or any particular description of service to any undue or unreasonable prejudice or disadvantage in any respect whatsoever."

[59] Hutchinson Direct, Exhibit 700, Page 6, Lines 19-21.
[60] Marke Rebuttal, Exhibit 402, Page 12, Line 8.
[61] Initial Brief of the Office of the Public Counsel, Page 7.
[62] Transcript, Pages 265-266, Lines 9-25, 1-3.
[63] Wills Direct, Exhibit 17, Page 49, Lines 10-17.
[64] Transcript, Page 304, Lines 15-17.

In interpreting that statute more than 90 years ago, the Missouri Supreme Court said: "[R]ates or charges to be valid must not be unjust, unreasonable, unjustly discriminatory, or unduly preferential."[65]

N. The Commission has much discretion in determining the theory or method it uses in determining rates[66] and can make pragmatic adjustments called for by particular circumstances.[67]

O. Cost-allocation is a discretionary determination frequently delegated to an expert administrative agency such as the Commission. In that regard, the Missouri Court of Appeals quoted approvingly the United States Supreme Court as saying "[a]llocation of costs is not a matter for the slide-rule. It involves judgment on a myriad of facts. It has no claim to an exact science."[68]

P. For an electrical corporation that has elected to Plant-In-Service-Accounting (PISA) under Section 393.1400, RSMo, (as has Ameren Missouri) Section 393.1655.6, RSMo, provides that:

> If the difference between (a) the electrical corporation's class average overall rate at any point in time while this section applies to the electrical corporation, and (b) the electrical corporation's class average overall rate as of the date rates are set in the electrical corporation's most recent general rate proceeding concluded prior to the date the electrical corporation gave notice under subsection 5 of section 393.1400, reflects a compound annual growth rate of more than two percent for the large power service rate class, the class average overall rate shall increase by an amount so that the increase shall equal a compound annual growth rate of two percent over such period for such large power service class, **with the reduced revenues arising from limiting the large power service class**

[65] *State ex rel. Laundry, Inc. v. Public Service Com'n* 34 S.W.2d 37, 44, 327 Mo. 93, 109 (Mo. 1931)
[66] *State ex rel. Public Counsel v. Public Service Com'n*, 274 S.W.3d 569, 586 (Mo. App. 2009).
[67] *State ex rel. U.S. Water/Lexington v. Missouri Public Service Com'n* 795 S.W.2d 593, 597 (Mo. App. 1990)
[68] *Spire Missouri, Inc. v. Missouri Public Service Com'n* 607 S.W.3d 759, 771 (Mo. App. 2020), *quoting National Ass'n of Greeting Card Publishers v. U.S. Postal Service*, 462 U.S. 810, 103 S.Ct 2727, 77 L.Ed. 2d 195 (1983). That decision was quoting an earlier United State Supreme Court decision, *Colorado Interstate Gas Co. v. Federal Power Commission,* 324 U.S. 581, 589, 65 S.Ct. 829, 833, 89 L.Ed. 1206 (1945).

> **average overall rate increase to two percent to be allocated to all the electrical corporation's other customer classes through the application of a uniform percentage adjustment to the revenue requirement responsibility of all the other customer classes.** (Emphasis added)

This statute does not have any direct impact on this rate case because the cap it imposes has not yet been met. But it does mean that in a future rate case the Residential rate class, as well as Ameren Missouri's other rate classes, could be statutorily required to subsidize the Large Power Service class. It also means that the legislature has recognized that class cost of service decisions can be based on consideration of public policy interests rather than a strict mathematical calculation.

Decision:

For purposes of this case, the Commission finds that Ameren Missouri's class cost of service study offers a reasonable estimation of class cost of service. However, under the particular circumstances of this case, the Commission believes that aside from Ameren Missouri's proposed adjustment to more closely balance the company-owned and customer-owned branches of the Lighting class, no class rate adjustments need to be made and the necessary rate increase should be allocated to all customer classes on an equal percentage basis. In making that determination, the Commission is not relying on the relatively minor differences between the cost studies prepared and submitted by the parties. Rather the Commission is exercising its discretion to look beyond the numbers contained in those cost studies to reach a deeper conclusion that the people who are members of the residential rate class have already faced enough challenges in recent years, including an 8.81 percent electric rate increase that will result from this case, and should not, at this time, have to endure an even larger rate increase to address the imbalance described in Ameren Missouri's class cost of service study.

The Commission continues to believe that cost-based rates are appropriate. It also believes that this decision will result in rates that are not unduly prejudicial to members of any of Ameren Missouri's rate classes. The Commission has made adjustments in the last seven rate cases to bring the various classes closer to their estimated cost of service, and may do so again in future rate cases. But for this case, except for Ameren Missouri's proposed adjustment within the Lighting class, no such adjustments will be made.

B. [A] How should production costs be allocated among customer classes within a class cost of service study?

C. [B] How should the non-fuel, non-labor components of production, operation, and maintenance expense be classified and allocated among customer classes within a class cost of service study?

D. [H] How should distribution costs be allocated or assigned among customer classes within a class cost of service study?

Findings of Fact:

There are no additional findings of fact for these issues.

Conclusions of Law:

Q. The Commission is not authorized to issue advisory opinions.[69]

[69] *State ex rel. Laclede Gas Co. v. Public Service Com'n*, 392 S.W.3d 24, 38 (Mo. App. 2012).

Decision:

The first of these three sub-issues questions the allocation of production costs among the various rate classes for purposes of a class cost of service study. Ameren Missouri's study allocated production costs using a 4 NCP A&E demand method. MIEC and MECG also support use of the 4 NCP A&E method as the "tried and true" generally accepted method for allocating such costs. Staff advocates for the use of a variety of methods to allocate production costs. Most controversially, it uses an energy allocator to allocate the costs associated with renewable generation sources, believing that because there are no fuel costs associated with such generation, the 4 NCP A&E method fails to allocate enough costs to the larger rate classes to the detriment of the smaller rate classes.

The second of these three sub-issues focuses on a minor disagreement between the class cost of service studies prepared by Ameren Missouri and MIEC. Ameren Missouri's study allocates non-fuel, non-labor components of production operation and maintenance expense as a production energy allocation. MIEC's study contends such costs are fixed and should be allocated on an "expenses-follow-plant" basis.

The third of these three sub-issues concerns Staff's desire to use an approach that attempts to assign more distribution costs to customer specific assets. But Staff did not use that approach in its cost study because of a lack of information. MIEC responded that the information Staff sought from Ameren Missouri was not needed to perform a class cost of service study.

The Commission does not need to, and will not, decide these three sub-issues. All three issues are merely disagreements about the details of the class cost of service studies presented by the various parties. Those differences would only be relevant if the

Commission were relying on those differences in making its decision about how to allocate the rate increase to the service rate classes. The Commission has not relied on any such differences in making its determination to allocate that increase to all customer classes on an equal percentage basis.

As a result, any determination the Commission made regarding these three issues would be of no practical effect and would essentially be an advisory opinion that the Commission is not authorized to issue. In addition, the Commission does not believe it would be appropriate to issue a "hypothetical" determination of these questions about how class cost of service studies should be conducted. Inevitably, any such determination would be cited by the parties in future rate cases and would serve only to restrict innovation and new ways of thinking about class cost of service questions. Instead, the Commission wants to encourage the parties to bring forward new ideas for a full consideration in future cases.

E. [F] Should the Commission approve MECG's proposed shift to increase the demand component for Large General Service and Small Primary Service and decrease energy charges?

Findings of Fact:

38. Ameren Missouri incurs three types of costs to serve its Large General Service and Small Primary Service rate classes. Demand costs are fixed costs incurred to size the system so that it meets peak demands imposed by the rate class. As fixed costs they do not change with the amount of energy consumed by the customer. Customer costs are also fixed costs based on the number of customers in the rate class and do not vary with the size of the customer or how much energy that customer

consumes. Energy costs are variable costs incurred based on the amount of energy the customer consumes.[70]

39. Ameren Missouri's class cost of service study shows that approximately seventy-seven percent of the costs incurred to serve Large General Service and Small Primary Service customers are demand related, while approximately twenty-one percent are energy related. However, only fourteen percent of Large General Service revenues and 9.6 percent of Small Primary Service revenues are collected by Ameren Missouri through demand costs.[71]

40. The shift of demand-related costs from demand charges to energy charges tends to disadvantage higher load factor customers to the benefit of lower load factor customers.[72]

41. Load factor – the average rate of use divided by the peak rate of use – is an expression of how uniformly a customer uses energy across time. A customer with a high load factor, meaning they do not have large peaks or valleys in their usage, is less expensive to serve, on a per kWh basis, than a customer with a low load factor, irrespective of the customer's size.[73]

42. MECG proposes that to correct this mismatch of demand and energy charges, Ameren Missouri should increase the summer and winter demand charges for the Large General Service and Small Primary Service by three times the percent class

[70] Chriss Direct, Exhibit 750, Page 33, Lines 7-18.
[71] Chriss Direct, Exhibit 750, Pages 33-34, Lines 21, 1-9 and Table 8.
[72] Chriss Direct, Exhibit 750, Page 36, Lines 12-21.
[73] Brubaker Direct, Exhibit 500, Page15, Lines 1-3.

increases and apply the remaining proposed increase on an equal percentage basis to the summer and winter energy charges.[74]

43. Ameren Missouri does not oppose a modest increase in demand charges relative to energy charges for the Large General Service and Small Primary Service classes, but is concerned about the magnitude of the change proposed by MECG.[75]

44. For more than 1,600 of the smallest customers in the class, MECG's proposed rate restructuring would produce bill increases, arising from the rate design change, of more than five percent, in addition to the general rate increase that has been authorized in this case.[76]

45. Additionally, increasing the demand charge on these rate classes at this time could have an impact on efficient electrification of transportation efforts. During the early years of electric vehicle (EV) adoption, a commercial customer that provides high-speed EV chargers to the public may see significant contributions to their billing demand established as a result of the chargers, but not have a significantly increased total EV-related energy consumption due to the relatively low adoption of EVs so far. The increased demand charge could hurt the economic case for that customer to provide the higher speed EV charging service. Similar issues could impact the customer's own efforts to electrify and charge their own fleet of vehicles.[77]

[74] Chriss Direct, Exhibit 750, Page 46, Lines 8-11.
[75] Wills Rebuttal, Exhibit 18, Page 53, Lines 17-22.
[76] Wills Rebuttal, Exhibit 18, Page 54, Lines 1-5.
[77] Wills Rebuttal, Exhibit 18, Page 54, Lines 8-20.

46. Ameren Missouri's bills to its Large General Service and Small Primary Service customers are based, at least in part on the customer's non-coincident peak (NCP). A monthly NCP is the highest demand a customer experienced during a month. That demand is measured as the highest usage experienced during a fifteen minute interval.[78]

47. A customer's NCP demand is not relevant to Ameren Missouri's generation capacity or resource adequacy unless the NCP demand happens to coincide with the systems peak. It is no more reasonable to recover the costs associated with system peak demands via a customer's NCP demand than it is to recover those costs via a customer's energy consumption.[79]

Conclusions of Law:

There are no additional conclusions of law for this issue.

Decision:

The Commission does not believe a shift between demand charges and energy charges within the Large General Service and Small Primary Service rate classes is appropriate at this time. Such a shift is not necessary to maintain just and reasonable rates and an increase in demand charges could have a negative impact on efficient electrification efforts.

F. [G] Should the Commission approve MECG's recommendation to require the Company to present analyses of alternatives to the hours-use rate design by 2025?

[78] Lange Rebuttal, Exhibit 215, Page 10, Lines 3-10.
[79] Lange Rebuttal, Exhibit 215, Pages 10-11, Lines 18-23, 1-3.

Finding of Fact:

48. Ameren Missouri's rate design for the Large General Service and Small Primary Service rate classes is based on a concept described as "hours use rate design." Ameren Missouri's witness described the rate design as:

> [A] block rate like we have block rates in other classes except for the size of the energy blocks that are applied to pricing are a function of that customer's demand. So if you have a higher demand you have a higher block threshold. And if you have a lower demand, you have a lower block threshold. As you use energy, it proceeds through those prices more quickly if you have a higher demand level.[80]

49. Ameren Missouri's witness agreed that a significant number of customers do not fully understand how that rate design works.[81]

50. Ameren Missouri is open to changing the design of these rates, but wants to wait until its rollout of AMI meters is complete in 2025, so information about the impact of the rate redesign may be collected and the redesigned rates can be applied to all customers.[82]

51. MECG asks the Commission to "require Ameren [Missouri] to redesign LGS [Large General Service] and SP [Small Primary Service] as three-part rates with unbundled demand charges and time varying energy charges and for all LGS and SP customers to be transitioned to those rates by 2025."[83]

Conclusions of Law:

There are no additional conclusions of law for this issue.

[80] Transcript, Pages 301-302, Lines 19-25, 1. *See also*, Chriss Direct, Exhibit 750, Pages 29-30, Lines 2-21, 1-8.
[81] Transcript, Page 302, Lines 4-6
[82] Transcript, Page 303, Lines 2-13. *See also* Wills Rebuttal, Exhibit 18, Page 56, Lines 3-8.
[83] Chriss Direct, Exhibit 750, Page 45, Lines 14-16.

Decision:

The Commission agrees that the Large General Service and Small Primary Service rates should be redesigned to make them more comprehensible for customers. That redesign process can begin now with Ameren Missouri gathering information and insight from customers who are already being served by AMI meters. The Commission will establish, by separate order, a working case to facilitate the collaboration between Ameren Missouri, Staff, Public Counsel, and the affected customers in redesigning these rates.

G. [I] What is the appropriate level of Rider B credits to be applied to the bills of customers providing their own substation equipment?

H. [J] Should Staff's recommended studies and data retention measures be adopted?

> **1. [3] Performance of a study of the reasonableness of the calculations and assumptions underlying Rider B to be filed as part of the Company's direct filing in its next general rate case.**

Findings of Fact:

52. Rider B within Ameren Missouri's rate tariffs establishes credits allowed to customers who are billed at primary rates, but who own their own substation equipment. It is sized to compensate those customers for the revenue requirement associated with customer-specific substations that Ameren Missouri did not have to build to serve those customers.[84]

[84] Staff Report, Class Cost of Service, Exhibit 205, Page 24, Lines 11-13.

53. Base rates for all Ameren Missouri's retail service classifications are established on the premise that Ameren Missouri will provide substation infrastructure as part of basic service, and anyone taking basic service while not receiving a Rider B discount contributes revenues to cover the cost of that substation infrastructure.[85]

54. Customers who own their own substations have invested hundreds of thousands or millions of dollars to displace similar investments Ameren Missouri would otherwise make. They also bear the on-going cost to operate and maintain those substations. Without the Rider B credit, the difference in the cost to serve such customers would be ignored.[86]

55. There are fifty-eight customers in the Small Primary Service rate class and twenty-two customers in the Large Primary Service rate class that currently receive Rider B discounts totaling approximately $3.8 million annually. If the Rider B discount were suspended, these customers would have to pay the same effective rates as customers who have not invested in their own substation equipment.[87]

56. Staff is concerned that Ameren Missouri does not specifically assign the costs of substation equipment that is dedicated to primary customers on the bills of primary customers. In its direct testimony, Staff recommended that the discounts to customers under Rider B be suspended until "Ameren Missouri provides the information necessary to include the cost of primary customer substations in the bills of primary customers (and such costs are included)".[88]

[85] Wills Rebuttal, Ex. 18, Page 22, Lines 16-25.
[86] Wills Rebuttal, Exhibit 18, Page 23, Liens 1-11.
[87] Wills Rebuttal, Exhibit 18, Pages 23-24, Lines 12-22, 1-2.
[88] Staff Report, Class Cost of Service, Exhibit 205, Page 54, Lines 7-11.

57. Specifically, Staff believes it needs to know “the number of LPS and SPS customers who own their own substation or substation components, and the value of LPS customer-specific infrastructure in the distribution accounts, and the value of SPS customer-specific infrastructure in the distribution accounts. From those values, a simple average-per customer by class calculation would be the starting point.”[89]

58. By the time of the hearing, Staff had modified its position to call for a suspension of the Rider B credits only if the Commission were to order something other than an across the board equal rate increase to all rate classes.[90] In its brief, Staff further modified its position to recommend only that the amount of the credits not be adjusted from current amounts if shifts in revenue responsibility are made between rate classes.[91]

59. In this order the Commission is not shifting revenue responsibility between rate classes so Staff’s request to suspend or adjust the credits is no longer applicable. However, Staff continues to believe that a study is needed to better address this issue in Ameren Missouri’s next rate case.[92]

Conclusions of Law:

There are no additional conclusions of law for this issue.

Decision:

The Commission will not suspend the Rider B credits, but it believes the question of the proper calculation of those credits should be further addressed in Ameren Missouri’s next rate case. Therefore, the Commission will direct Ameren Missouri to study

[89] Lange Surrebuttal, Exhibit 231, Page 15, Lines 11-15.
[90] Transcript, Page 377, Lines 7-18.
[91] Staff’s Initial Post-Hearing Brief, Pages 27-28. *See also*, Transcript, Page 382, Lines 7-18.
[92] Transcript, Page 378, Lines 13-17.

the reasonableness of the calculations and assumption underlying Rider B and to file the results of that study as part of its direct filing in its next general rate case.

By statute, orders of the Commission become effective in thirty days, unless the Commission establishes a different effective date.[93] To prevent unnecessary delay in the filing of compliance tariffs, the Commission will make this order effective on February 12, 2022, which the Commission determines is a reasonable shortening of the statutory timeframe.

THE COMMISSION ORDERS THAT:

1. The tariff sheets submitted on March 31, 2021, by Ameren Missouri, assigned Tracking No. YE-2021-0175 and an additional tariff sheet filed on October 15, 2021, and assigned Tracking No. YE-2022-0076, are rejected.

2. Ameren Missouri is authorized to file tariff sheets sufficient to recover revenues approved in compliance with this order and the approved stipulations and agreements.

3. Ameren Missouri shall comply with all directives, conditions and other requirements as more fully described in the body of this order.

4. Staff's Motion to Strike Settlement Statement from MECG Brief is denied.

5. MIEC's Motion to File Post-Hearing Brief Out of Time is granted.

6. This report and order shall become effective on February 12, 2022.

BY THE COMMISSION

Morris L. Woodruff
Secretary

[93] Section 386.490.2, RSMo.

Silvey, Chm., Rupp, Coleman, Holsman, and
Kolkmeyer CC., concur.

Woodruff, Chief Regulatory Law Judge

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 2nd day of February, 2022.

Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

February 2, 2022

File/Case No. ER-2021-0240

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Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,

Morris L. Woodruff
Secretary

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.