

*Exhibit No.:*  
*Issue(s):* *Legal Expense,  
FERC ROE Legal  
True-Up*  
*Witness:* *Christopher D. Caldwell*  
*Sponsoring Party:* *MoPSC Staff*  
*Type of Exhibit:* *Surrebuttal/True-Up  
Direct Testimony*  
*Case No.:* *ER-2021-0240*  
*Date Testimony Prepared:* *November 5, 2021*

**MISSOURI PUBLIC SERVICE COMMISSION**  
**FINANCIAL AND BUSINESS ANALYSIS DIVISION**  
**AUDITING DEPARTMENT**

**SURREBUTTAL/ TRUE-UP DIRECT TESTIMONY**

**OF**

**CHRISTOPHER D. CALDWELL**

**UNION ELECTRIC COMPANY**  
**d/b/a Ameren Missouri**

**CASE NO. ER-2021-0240**

*St. Louis, Missouri*  
*October 2021*

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CHRISTOPHER D. CALDWELL  
UNION ELECTRIC COMPANY,  
d/b/a AMEREN MISSOURI  
CASE NO. ER-2021-0240**

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1                                   **SURREBUTTAL/TRUE-UP DIRECT TESTIMONY**

2  
3   **OF**

4  
5   **CHRISTOPHER D. CALDWELL**

6  
7   **UNION ELECTRIC COMPANY**  
8   **d/b/a Ameren Missouri**

9  
10    **CASE NO. ER-2021-0240**

11  
12            Q.       Please state your name and business address.

13            A.       My name is Christopher D. Caldwell. My business address is 111 N. 7<sup>th</sup> Street,  
14 Ste. 105, St. Louis, MO 63101.

15            Q.       By whom are you employed and in what capacity?

16            A.       I am employed by the Missouri Public Service Commission (Staff) as a Utility  
17 Regulatory Auditor in the Auditing Department of the Financial & Business Analysis Division.

18            Q.       Are you the same Christopher D. Caldwell who contributed to the *Staff's*  
19 *Revenue Requirement Cost of Service Report* filed on September 3, 2021?

20            A.       Yes, I am.

21            Q.       What is the purpose of your surrebuttal/true-up direct testimony in this  
22 proceeding?

23            A.       My surrebuttal testimony will respond to the rebuttal testimony of  
24 Union Electric d/b/a Ameren Missouri (Ameren Missouri) witness Mitchell Lansford with  
25 regard to recovery of general legal expense as well as legal expenses related to the ongoing  
26 Federal Energy Regulatory Commission (“FERC”) return on equity (“ROE”) complaint cases  
27 that was incurred during the test year.

28                    Additionally, my testimony will address Staff’s true-up position for plant-in service,  
29 depreciation reserve, insurance expense, prepayments, materials and supplies – excluding fuel

1 inventory, customer advances, customer deposits, interest on customer deposits, Nuclear  
2 Regulatory Commission (NRC) fees, general legal expense and legal expense related to the  
3 Rush Island Clean Air Violation case.

4 **SURREBUTTAL TESTIMONY**

5 **GENERAL LEGAL EXPENSE**

6 Q. Ameren Missouri witness Mitchell Lansford, page 27, lines 20 -21,  
7 stated Staff's filing was not only deficient, but also Staff miscalculated the general legal  
8 expense. Does Staff agree with Mr. Lansford's comments?

9 A. No, Staff used the information that Ameren Missouri provided in Data  
10 Request Response No. 281 to perform its calculations. In the past, Ameren Missouri  
11 would accrue legal expense to an ongoing reserve balance and then subsequently adjust  
12 that reserve balance for actual cost expense. In 2019 Ameren Missouri changed its  
13 recording for legal expense by setting an annual level of accrual and then expensing  
14 legal costs as incurred. When reviewing the data on an annual basis, Staff had netted  
15 the actual expense with the accrued amounts for the data prior to 2019 and then analyzed  
16 actual expense after 2019. After discussion with Company personnel regarding this  
17 methodology, Staff has determined it is appropriate to use only the actual expenses  
18 incurred and not the netted amounts prior to the policy change. Please see Staff's  
19 proposed true-up amount discussed later in this testimony.

20 **FERC ROE LEGAL EXPENSE**

21 Q. Ameren Missouri witness Mitchell Lansford states on page 28, lines 10 -16 of  
22 his rebuttal testimony, "over the last

1 several years, retail customers have benefited from higher ROE paid by transmission customers  
2 because revenues associated with these higher ROEs have resulted in a direct offset to the retail  
3 revenue requirement. Since transmission ROE directly impacts retail customer rates and indeed  
4 has provided offsets that lower what the revenue requirement would otherwise have been, the  
5 cost to litigate the FERC ROE complaint cases should be included in the Company's revenue  
6 requirement." Does Staff agree with Company's argument? No, ratepayers should not  
7 reimburse Ameren Missouri for litigation fees for the FERC ROE cases, because that is a legal  
8 matter between transmission customers (not retail customers) and MISO Transmission Owners  
9 Group of which Ameren Missouri, Ameren Illinois and Ameren Transmission Company of  
10 Illinois are part of.

11 Q. What is FERC ROE and why was it a component of FERC ratemaking?

12 A. FERC ROE is a return on equity rate that is set by FERC, and it is an approved  
13 return percentage that FERC sees as just and reasonable for utility companies to recover  
14 prudently incurred capital costs related to transmission infrastructure development.  
15 Section 1241 of the Energy Policy Act of 2005, specifically section 219 of the Federal Power  
16 Act (FPA), directed Federal Energy Regulatory Commission FERC to use transmission  
17 incentives to help ensure reliability and reduce the cost of delivered power by reducing  
18 transmission congestion. In 2005, Congress amended the FPA by adding a new section 219 to  
19 the Federal Power Act. Section 219(a) states, "The FERC shall establish, by rule, incentive-  
20 based  
21 (including performance-based) rate treatments for the transmission of electric energy in  
22 interstate commerce by public utilities for the purpose of benefitting consumers by ensuring  
23 reliability and reducing the costs of delivered power by reducing transmission congestion."

1 Section 219(b) included a number of specific directives in the required rulemaking, which  
2 includes that the FERC should: (1) promote reliable and economically efficient transmission  
3 and generation of electricity by promoting capital investment in the enlargement, improvement,  
4 maintenance, and operation of all facilities for the transmission of electric energy in interstate  
5 commerce, regardless of the ownership of the facilities; (2) provide a return on equity that  
6 attracts new investment in transmission facilities, including related transmission technologies;  
7 (3) encourage deployment of transmission technologies and other measures to increase the  
8 capacity and efficiency of existing transmission facilities and improve the operation of the  
9 facilities; and (4) allow the recovery of all prudently incurred costs necessary to comply with  
10 mandatory reliability standards issued pursuant to section 215 of the FPA, and all prudently  
11 incurred costs related to transmission infrastructure development pursuant to section 216 of the  
12 FPA.

13 Section 219 (c) requires that the FERC shall, to the extent within its jurisdiction, provide for  
14 incentives to each transmitting utility or electric utility that joins a Transmission Organization  
15 and ensure that any costs recoverable pursuant to this subsection may be recovered by such  
16 utility through the transmission rates charged by such utility or through the transmission rates  
17 charged by the Transmission Organization that provides transmission service to such utility.

18 Q. On page 28, lines 8-10, of Ameren Missouri witness Mitchell Lansford's rebuttal  
19 testimony, he states, "the difference between Ameren Missouri's retail ROE and ROEs used to  
20 set FERC-regulated transmission rates is reflected in retail revenue requirements as a reduction  
21 or increase in revenue requirement". Also at lines 13-16, "Since transmission ROE directly  
22 impacts retail customer rates and indeed has provided offsets that lower what the revenue  
23 requirement would otherwise have been, the cost to litigate the FERC ROE complaint cases

1 should be included in the Company's revenue requirement". Is it true that the transmission  
2 revenue resulted in a direct offset to the retail revenue requirement?

3 A. Yes, the transmission revenue received by Ameren Missouri has resulted in a  
4 direct offset to the retail revenue requirement.

5 Q. Why should FERC ROE complaint case legal fees not be included in the revenue  
6 requirement?

7 A. Transmission revenue and expense will occur regardless of the specific level of  
8 FERC ROE and ratepayers will only benefit from a higher FERC ROE if the transmission  
9 revenues are higher than transmission expense when looking at the FERC ROE in isolation.  
10 Besides that fact, the question as to whether transmission revenue offsets transmission expense  
11 is a distraction from the fact that FERC ROE was developed as an incentive for transmission  
12 owners to build infrastructure. The cost of building infrastructure is then recovered from  
13 ratepayers in the MISO footprint, of which only a portion of that revenue and expense is return  
14 on equity. However, that does not change the fact that the return on equity is profit to the utility  
15 to incentivize for building transmission infrastructure. The current environment encourages the  
16 building out of more transmission through the United States, especially areas in the West. While  
17 a buildout of transmission does benefit customers with reliability, the fact remains that Ameren  
18 Missouri is attempting to recover litigation and consulting costs in rates that are intended to  
19 increase profit.

1  
2 **TRUE-UP DIRECT**

3 **Legal Expense**

4 Q. Has Staff updated general legal expense for electric operations as part of its  
5 true-up audit?

6 A. Yes. Staff has included \*\*[REDACTED]\*\*.

7 **Insurance Expense**

8 Q. Has Staff updated insurance expense to include any additional as well as  
9 renewed insurance policies as part of its true-up audit?

10 A. Yes. Staff has reviewed the company's insurance policies and looked for any  
11 expired, renewed and new policies and insurance premiums. Staff noticed an increase and has  
12 reflected the current premiums in insurance policies through September 30, 2021.

13 **Plant-In-Service and Accumulated Depreciation Reserve**

14 Q. Has Staff adjusted plant-in-service and accumulated depreciation reserve as part  
15 of its true-up audit?

16 A. Yes. Staff has replaced the estimated balances from its direct position for plant-  
17 in-service and accumulated depreciation reserve with actual amounts through the true-up cutoff  
18 of September 30, 2021. Staff has adjusted Ameren Missouri's plant balances to allocate a  
19 portion of the Company's general plant and depreciation reserve to Ameren Missouri's natural  
20 gas business.

21 **Materials & Supplies**

22 Q. Has Staff updated materials and supplies as part of its true-up audit?

23 A. Yes. Staff has included in rate base a 13-month average of materials and  
24 supplies for the 13-months ending September 30, 2021.



**Prepayments**

1  
2 Q. Has Staff updated prepayments as part of its true-up audit?

3 A. Yes. Staff has included in rate base a 13-month average of prepayments for the  
4 13-months ending September 30, 2021.

**Customer Deposits and Interest on Customer Deposits**

5  
6 Q. Has Staff updated customer deposits and associated interest expense as part of  
7 its true-up audit?

8 A. Yes. Staff has included in rate base a 13 month average of customer deposits  
9 for the period ending September 30, 2021.

10 Q. Has Staff updated the interest associated with the updated level of customer  
11 deposits as part of its true-up audit?

12 A. Yes. Staff has re-calculated the interest on customer deposits by applying the  
13 tariffed interest rate to the updated level of customer deposits. The interest rate on customer  
14 deposits remains at 3.25% plus 1% through the true-up period.

**Customer Advances**

15  
16 Q. Has Staff updated customer advances as part of its true-up audit?

17 A. Yes. Staff has included in rate base a 13-month average of customer advances  
18 for the period ending September 30, 2021.

**Rush Island Legal Fees**

19  
20 Q. On August 20, 2021, the United States Eighth District Court of Appeals upheld  
21 the District Court decision requiring Ameren Missouri to place flue gas desulfurization (FGD)  
22 and related equipment on Rush Island, but reversed the previously ordered remedial measures  
23 for Labadie as not needed. Has Ameren Missouri decided if they are going to petition a

1 rehearing by the United States Eighth District Court of Appeals or if Ameren Missouri is going  
2 to appeal to the United States Supreme Court?

3 A. On Oct. 18, 2021, Ameren Missouri filed a petition for rehearing of the Rush  
4 Island Clean Air Violation with the United States Eighth District Court of Appeals. According  
5 to Ameren Missouri's response to Staff data request (DR) 338.1, the rehearing would be based  
6 on the current evidentiary record as developed in the legal proceedings before the  
7 Eighth District Court of Appeals, if accepted by the Court.

8 Q. Has Staff reviewed the litigation expenses associated with Rush Island Clean  
9 Air Act as part of its true-up audit?

10 A. Yes. Staff has reviewed all legal and consulting expenses incurred by Ameren  
11 Missouri related to this matter. Due to Ameren Missouri filing a petition for rehearing, Staff  
12 has included the level of legal expense that were incurred during the twelve months ending  
13 September 30, 2021, that specifically pertain to this matter. The consultant fees have already  
14 been capitalized to Rush Island and were reviewed in direct prior to Staff's true-up audit.

15 **Nuclear Regulatory Commission (NRC) Fees**

16 Q. Has Staff updated NRC Fees as part of its true-up audit?

17 A. Yes. Staff has reviewed Ameren Missouri's response to Staff DR 321, which  
18 includes new NRC fee invoices. The result of this calculation is the total annualized expense  
19 level associated with NRC fees based on the 12 months ending September 30, 2021.

20 Q. Does this conclude your surrebuttal/true-up direct testimony?

21 A. Yes it does.

**BEFORE THE PUBLIC SERVICE COMMISSION**

**OF THE STATE OF MISSOURI**

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

**AFFIDAVIT OF CHRISTOPHER D. CALDWELL**

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

**COMES NOW CHRISTOPHER D. CALDWELL** and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing *True-Up Direct Testimony of Christopher D. Caldwell*; and that the same is true and correct according to his best knowledge and belief.

Further the Affiant sayeth not.

*Christopher D. Caldwell*  
**CHRISTOPHER D. CALDWELL**

**JURAT**

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of St. Louis, State of Missouri, at my office in St. Louis, on this 3<sup>rd</sup> day of November, 2021.

LISA M. FERGUSON  
Notary Public - Notary Seal  
State of Missouri  
Commissioned for St. Louis County  
My Commission Expires: June 23, 2024  
Commission Number: 16631602

*Lisa M. Ferguson*  
Notary Public