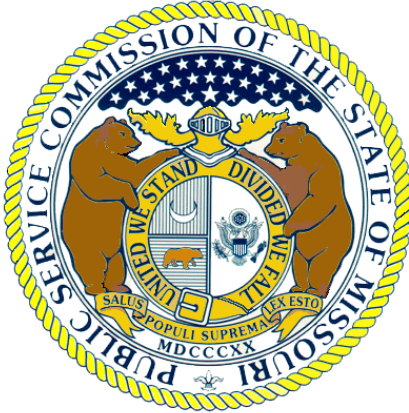


**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**



In the Matter of the Application of)
Union Electric Company d/b/a Ameren Missouri)
for the Issuance of an Accounting Authority)
Order Relating to its Electrical Operations)

File No. EU-2012-0027

REPORT AND ORDER

Issue Date: November 26, 2013

Effective Date: December 26, 2013

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Application of)
Union Electric Company d/b/a Ameren Missouri) File No. EU-2012-0027
for the Issuance of an Accounting Authority)
Order Relating to its Electrical Operations)

REPORT AND ORDER

Issued: November 26, 2013

Effective: December 26, 2013

The Missouri Public Service Commission is granting the application for an accounting authority order (“AAO”).¹ The AAO accounts for unexpected lost revenue to recover fixed costs. The AAO only allows for deferred recording, does not guarantee recovery, and does not in any way bind the Commission as to future rate making treatment.

Procedure

The Commission has jurisdiction to decide the application.² Union Electric Company (“Ameren”) has the burden of proof³ by a preponderance of the evidence⁴ and reasonable inferences.⁵ On that basis, the Commission finds the facts as follows.

¹ Electronic Filing and Information System (“EFIS”) No. 1, *Verified Application for Accounting Authority Order*, filed on July 25, 2011. EFIS is accessible at <http://psc.mo.gov/default.aspx>.

² 4 CSR 240-20.030(1); 18 CFR 101, Account 182.3.B (emphasis added). The parties adverse to the application seek denial of the application based on late filing of the application, but they make no persuasive argument supporting a calculation of the deadline for filing an application for an AAO.

³ *State ex rel. Tel-Central of Jefferson City, Inc. v. Pub. Serv. Comm'n of Missouri*, 806 S.W.2d 432, 435 (Mo. App., W.D. 1991).

⁴ *State Board of Nursing v. Berry*, 32 S.W.3d 638, 641 (Mo. App., W.D. 2000).

⁵ *Farnham v. Boone*, 431 S.W.2d 154 (Mo. 1968).

Findings of Fact

1. Union Electric Company is a Missouri corporation doing business as “Ameren Missouri” to provide electric service for gain.⁶

2. Costs of providing electric service include fixed costs.⁷ Fixed costs are expenses that Ameren incurs to be capable of delivering electricity at full capacity at any given time, even though customers may not need that entire capacity at any given time. Fixed costs do not fluctuate with the amount of electricity sold.⁸

3. In January 2008, an ice storm struck southeast Missouri,⁹ cutting power to Ameren’s largest customer Noranda Aluminum, damaging Noranda’s operations, and reducing Noranda’s purchases of electricity for 14 months.¹⁰ As a result, Ameren collected less revenue than expected from Noranda.¹¹ The amount of unrecovered fixed costs attributable to serving Noranda during those 14 months is \$35,561,503.¹²

4. The \$35,561,503 of unrecovered fixed costs attributed to serving Noranda represented nearly 8.5% of the Company’s net income in 2009.¹³

⁶ EFIS No. 87, *Transcript* volume 2, page 177, Ins. 12 through 16.

⁷ EFIS No. 87, *Transcript* volume 2, page 176, Ins. 10 through 14.

⁸ EFIS No. 87, *Transcript* volume 2, page 108, Ins. 11 through 16.

⁹ EFIS No. 101, Ameren Exhibit No. 2, *Direct Testimony of Lynn M. Barnes*, page 3, line 3 through 12.

¹⁰ EFIS No. 100, Ameren Exhibit No. 1, *Surrebuttal Testimony of David N. Wakeman*, page 17, Ins. 5 through 12.

¹¹ EFIS No. 103, Ameren Exhibit No. 4, *Direct Testimony of Steven M. Wills*, page 3, Ins. 1 through 6.

¹² EFIS No. 87, *Transcript* volume 2, page 17, line 2 through 20; for Ameren, \$35,561,503 before taxes represents \$21,909,940 after taxes, *Id.* p. 50. Ins. 15 – 17.

¹³ EFIS No. 102, Ameren Exhibit 3, *Surrebuttal Testimony of Lynn M. Barnes*, page 6, Ins. 8 – 14.

Conclusions of Law

1. The Commission must always report its conclusions.¹⁴

2. An AAO is a mechanism to “defer” an item, which means to record an item to a period outside of a test year for consideration in a later rate action. Items eligible for deferral include an “extraordinary item”, an item that pertains to an event that is extraordinary, unusual and infrequent,¹⁵ and not recurring.¹⁶

3. Revenue not collected by a utility to recover its fixed costs, under some circumstances, is an “item” that may be deferred and considered for later rate making. This is consistent with Commission regulations regarding certain energy conservation programs which specify that lost revenue may constitute an item for recording.¹⁷ It is also analogous to the Cold Weather Rule, created by the Commission under its statutory authority,¹⁸ which expressly allowed for recovery of lost revenues.¹⁹ Such a deferral under this rule does not constitute illegal retro-active ratemaking because there is no rate being set for it is merely an accounting deferral.²⁰

¹⁴ Section 386.420.2, RSMo 2000.

¹⁵ Uniform System of Accounts (“USoA”) General Instruction 7, Account 434, and Account 435.

¹⁶ USoA, General Instruction 7.

¹⁷ 4 CSR 240-3.164(1)(M), which relates to certain conservation programs.

¹⁸ See 4 CSR 240-13.055, Cold Weather Maintenance of Service: Provision of Residential Heat-Related Utility Service During Cold Weather; Sections 386.250, 393.140, RSMo 2000 and 393.130, RSMo Supp. 2012.

¹⁹ State ex rel. Missouri Gas Energy v. Pub. Serv. Comm’n, 210 S.W.3d 330, 335-36 (Mo. App., W.D. 2006).

²⁰ State ex rel. Office of Public Counsel v. Missouri Public Service Comm’n, 301 S.W.3d 556, 571 (Mo. App., W.D. 2009).

4. Ameren has shown that its loss of \$35,561,503, which constitutes 8.5% of its net income, is extraordinary and material.²¹ Extraordinary items are deferred by recording them in Uniform System of Accounts (“USoA”)²² Accounts 182.3 and 254, regulatory assets and liabilities, respectively.²³

5. Recording in these accounts is in the public interest because it preserves an item for consideration when setting just and reasonable rates. But deferred recording does not guarantee recovery in any later rate action; recovery may be granted in whole, partially, or not at all.²⁴

For those reasons, the Commission makes its rulings as follows, subject to rehearing under Section 386.500, RSMo 2000.

THE COMMISSION ORDERS THAT:

1. The *Verified Application for Accounting Authority Order* is granted.²⁵
2. This order shall become effective December 26, 2013.

²¹ To be considered an extraordinary item, the item should be more than approximately 5 percent of income, computed before extraordinary items. USoA, General Instruction 7.

²² 18 CFR Part 101, as incorporated to this Commission’s regulations at 4 CSR 240-20.030(1).

²³ USoA 407.4, “Regulatory Credits” sets forth that this account shall also be credited when appropriate, with the amounts debited to Account 182.3.

²⁴ *State ex rel. Missouri Gas Energy v. Pub. Serv. Comm’n*, 210 S.W.3d 330, 336 (Mo. App., W.D. 2006). *Missouri Gas Energy v. Pub. Serv. Comm’n, State of Mo.*, 978 S.W.2d 434, 438 (Mo. App., W.D. 1998); EFIS No. 91, Staff Exhibit No. 3, *Rebuttal Testimony of Mark L. Oligschlaeger*, page 6, ln 11 - 16.

²⁵ The Court of Appeals expressly acknowledged this possibility: “Ameren had other remedies available to it to address its unexpected retail revenue loss. [An Ameren witness] testified that Ameren could have sought an accounting authority relating to the lost revenue in a subsequent rate case.” *State ex rel. Union Elec. Co. v. Pub. Serv. Comm’n of State*, 399 S.W.3d 467, 489-90 (Mo. App., W.D. 2013) (footnotes omitted).

3. This file shall close on December 27, 2013.

BY THE COMMISSION



A handwritten signature in cursive script that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Stoll, W. Kenney, and Hall, CC, concur,
R. Kenney, Chm., dissents;
and certify compliance with the provisions of
Section 536.080, RSMo.

Jordan, Senior Regulatory Law Judge