Exhibit No.:
Issue(s): PTC/ITC, RESRAM, Tax Diligence, IRA Tracker
Witness: Jane C. Dhority
Sponsoring Party: MoPSC Staff
Type of Exhibit: Rebuttal Testimony
Case No.: EA-2023-0286
Date Testimony Prepared: October 11, 2023

MISSOURI PUBLIC SERVICE COMMISSION

FINANCIAL & BUSINESS ANALYSIS DIVISION

AUDITING DEPARTMENT

REBUTTAL TESTIMONY

OF

JANE C. DHORITY

UNION ELECTRIC COMPANY, d/b/a AMEREN MISSOURI

CASE NO. EA-2023-0286

Jefferson City, Missouri
October 2023

** Denotes Highly Confidential Information **

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REBUTTAL TESTIMONY

OF

JANE C. DHORITY

UNION ELECTRIC COMPANY,
d/b/a AMEREN MISSOURI

CASE NO. EA-2023-0286

Q. Please state your name and business address.

A. My name is Jane C. Dhority and my business address is 111 North 7th Street, Suite 105, St. Louis, MO 63101.

Q. Have you previously filed testimony before this Commission?

A. Yes. Please refer to Schedule JCD-r1, attached to this rebuttal testimony, for a list of cases for which I have filed testimony and a description of my credentials.

Q. What is the purpose of your rebuttal testimony?

A. The purpose of this testimony is to provide the Commission with an overview of the Inflation Reduction Act's ("IRA") renewable energy tax credits available to Union Electric Company, d/b/a Ameren Missouri's ("Ameren Missouri") Bowling Green, Cass County, Split Rail, and Vandalia Solar Projects ("Solar Projects"), which are the subjects of this case. Staff provides a summary of the findings of the tax due diligence performed by Ameren Missouri for each of the four Solar Projects. This testimony also contains a discussion of the costs that could be included in Ameren Missouri's Renewable Energy Standard Rate Adjustment Mechanism ("RESRAM") or Ameren Missouri's IRA tracker. Finally, Staff makes certain recommendations to the Commission pertaining to Ameren Missouri's choice of tax credit for each project and possible designation of one or more of the Solar Projects as Renewable Energy Standard ("RES") compliance assets.

INFLATION REDUCTION ACT

Q. What is the IRA?

A. The Inflation Reduction Act was signed into law by President Biden on August 16, 2022, and became effective on January 1, 2023. The IRA has many provisions aimed at helping the United States meet its climate goals, strengthen energy security, create jobs, reduce energy and health care costs, and make the tax code more equitable. The IRA also covers new and reinstated tax laws that will affect individuals and businesses, including a number of credits and deductions. In addition, key-revenue raising provisions associated with the IRA include the establishment of a 15% book-income alternative minimum tax on corporations with adjusted financial statement income over $1 billion. The benefits established by the IRA are applicable to many different forms of renewable energy. However, the discussion below will be limited to solar generation.

Q. What effect did the IRA have on the investment tax credit ("ITC") and production tax credit ("PTC") in regards to solar generation?

A. Prior to enactment of the IRA, the ITC applied to solar energy projects but was subject to the standard phase-out of those credits, which dropped to a 10% tax credit in 2024 and thereafter. The IRA retained the ITC for solar generation projects but re-established the opportunity to claim a 30% tax credit. This full 30% rate is considered a "bonus rate" if prevailing wage and apprenticeship requirements are met. Otherwise, a base ITC of 6% applies to solar generation projects. This tax credit rate will be available until 2032 or the calendar year in which the Secretary of the Treasury determines that the annual greenhouse gas emissions from electricity generation are 75% lower than 2022. After 2032, the ITC phases out rapidly until 2035 when the ITC will no longer be available.

Prior to enactment of the IRA, the PTC was available for solar, but only for facilities that were placed in service before 2006. So, no PTC was available for solar generation built after that date. Under the IRA, solar electric generation facilities will again qualify for the PTC. Electricity from solar facilities will qualify for the PTC if the facility is placed in service after the date of enactment of the IRA, and construction on the facility commences prior to January 1, 2025. The phase-out of the credit was eliminated, but the credit rate provisions were replaced with a two-tier structure. The base credit is 0.55 cents per kilowatt-hour ("kWh") and is increased by a factor of five up to 2.75 cents per kWh if the facility satisfies, or is exempt from, the prevailing wage and apprenticeship requirements.

<u>TAX CREDITS AND THE SOLAR PROJECTS</u>

Q. Are any of the four Solar Projects included in this case eligible for IRA tax credits?

A. Yes. The Solar Projects that are included in this Certificate of Convenience and Necessity ("CCN") filing are eligible for the ITC and the PTC. The ITC is a tax credit that would reduce the federal income tax liability for a percentage of the cost of a solar system that is installed during the tax year. The PTC is a per-kWh tax credit that would apply to the electricity generated by the solar projects and other qualifying technologies for the first ten years of a system's operation. It reduces the federal income tax liability and is adjusted annually for inflation.

Q. Can Ameren Missouri take advantage of both tax credits at the same time?

A. No. Generally, project owners cannot claim both the ITC and the PTC for the same property. However, they can choose to utilize either the ITC or PTC, separately for each of the four projects contemplated in this CCN filing.

Q. What requirements must be met for each project to be permitted to utilize the PTC or ITC?

A. To be eligible for the business ITC or PTC base tax credit rates, each project must be considered an "energy property." Solar energy property includes equipment and materials that use solar energy to generate electricity, and includes storage devices, power conditioning equipment, transfer equipment, and interdependent parts related to the functioning of those items. Solar energy property that is used to generate electricity includes only equipment up to and including the inverter.

Energy properties must also be:

- Located in the United States or U.S. territories
- Use new and/or limited previously-used equipment
- Not leased to a tax-exempt entity (e.g., a school), though tax exempt entities are eligible to receive the ITC themselves in the form of a direct payment.

Qualifying energy properties must establish when construction of the project began in determining eligibility for tax credits. The Internal Revenue Service ("IRS") has issued guidance that the definition of commenced construction in the context of the new IRA is the same as that issued before the IRA. A taxpayer may satisfy both methods listed below, but a taxpayer need only satisfy one method in order to establish the beginning of construction of a project, namely:

- At least 5% of the total final qualifying project costs are incurred ("Five Percent Safe Harbor"). Expenses must be "integral" to generating electricity, and equipment and services must be delivered (or anticipated to be delivered within 3.5 months after payment); or

- "Physical work of significant nature" is commenced on the project site or on project equipment at the factory ("Physical Work Test"). Physical work must be "integral" to the project. Preliminary activities on site (e.g., clearing the site or building a fence or an access road) do not count as "integral."

Both tests require that the project makes continuous progress towards completion once construction has begun, which the IRS considers satisfied automatically if the project is placed in service no later than four calendar years (or ten years, for projects that meet the definition of being constructed on federal land) after the calendar year in which construction began (these four and ten-year time periods are known as "continuity safe harbor"). Projects can still potentially satisfy the continuity safe harbor beyond four years, depending on their individual facts and circumstances. However, because this is not guaranteed, owners may bear additional risk.

Taxpayers can increase the base amounts of the PTC or ITC by five times by meeting the Treasury Department's prevailing wage and apprenticeship requirements. To qualify for the full value of the ITC, all wages for construction, alteration, and repair for the first five years of the project must be paid at the prevailing rates of that location. This will increase the base amount of the ITC to 30% (6% x 5 = 30%). Similarly, the base amount of the PTC can be increased by meeting prevailing wage and apprenticeship requirements for the first ten years of the project (.55 x 5 = 2.75 per kwh). In addition, a certain percentage of the total construction labor hours for a project must be performed by an apprentice.

The percentage of labor hours required to be performed by an apprentice increases over time, starting at 10% of the total labor hours for projects beginning construction prior to January 1, 2023, 12.5% of the total labor hours for projects beginning construction in 2023, and 15% of the total labor hours for projects beginning construction after 2023. Taxpayers must also maintain and preserve sufficient records for work performed by contractors or subcontractors of the taxpayer, to establish that such laborers were paid prevailing rates.

Projects can correct violations or non-compliance with prevailing wage requirements, if they were originally not satisfied, by paying the affected employees the difference in wages plus interest and paying a fee to the Labor Department for each impacted individual. The apprenticeship requirements also can be satisfied if a good faith effort was made to comply or if a penalty is paid to the Treasury per hour of non-compliance.

Q. Are there any exceptions to the requirements described above?

A. There are limited exceptions where taxpayers may be eligible to claim the five times increase without meeting prevailing wage and apprenticeship requirements that include the following:

- Certain small facilities that produce clean energy under one megawatt; and
- Facilities that began construction before January 29, 2023.

<u>TAX CREDIT ADDERS</u>

Q. Does the IRA allow "adders" to the allowable base ITC and PTC tax credits?

A. Yes. In addition to the full rate available, qualifying projects may be eligible for bonus credits such as a Domestic Content Bonus and an Energy Community Bonus.[1]

DOMESTIC CONTENT BONUS:

Q. What requirements must be satisfied to qualify for the Domestic Content Bonus credits?

A. To qualify for the Domestic Content Bonus, all structural steel or iron products used must be produced in the United States and a "required percentage" of the total costs of manufactured products (including components) of the facility need to be mined, produced, or manufactured in the United States. The percentage is calculated by dividing the cost of all domestically manufactured products and components by the total cost of all manufactured products utilized in the project.

Projects that meet domestic content minimums are eligible for a 10-percentage point increase in value of the ITC (e.g., an additional 10% for a 30% ITC = 40%) or the full value of the PTC multiplied by 1.1.

The required percentage of manufactured products starts at 40% for all projects beginning construction before 2025, increases to 45% for projects beginning construction in 2025, to 50% for projects beginning construction in 2026, and to 55% for projects beginning construction after 2026.

[1] There is a third bonus credit available in addition to the Domestic Content Bonus and Energy Community Bonus. The Low-Income Communities Bonus Credit increases the amount of energy investment tax credits for clean-energy investments in low-income communities, on Indian land, as part of affordable housing developments, and benefitting low-income households.

ENERGY COMMUNITY BONUS:

Q. What requirements must be satisfied to qualify for the Energy Community bonus credits?

A. The Energy Community Bonus is available to projects that are located in one of the following three areas:

1. A brownfield site;[2]
2. An area that, after 2009, had a 0.17% or more direct employment or 25% or more local tax revenues related to the extraction, processing, transport, or storage of coal, oil, or natural gas, and has an unemployment rate at or above the national average for the previous year; or
3. A census tract in which a coal mine closed after 1999 (including any adjoining census tract), or a coal-fired electric generating unit has retired after 2009.[3]

A project is considered located in or placed in service within an Energy Community ("EC") if 50% or more of the project's nameplate capacity is in an area that qualifies as an EC. Projects sited in an EC are eligible for a 10-percentage-point increase in value of the ITC (e.g., an additional 10% for a 30% ITC = 40%) or a 10 percent increase in value of the PTC.

The table below summarizes PTC and ITC values:[4]

[2] A brownfield is a property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

[3] Census Tracts are small, relatively permanent statistical subdivisions of a county or statistically equivalent entity that can be updated by local participants prior to each decennial census as part of the Census Bureau's Participant Statistical Areas Program. They are statistical subdivisions of a county that aim to have roughly 4,000 inhabitants. Tract boundaries are usually visible features, such as roads or rivers, but can also follow the boundaries of national parks, military reservations, or American Indian reservations.

[4] https://www.energy.gov/eere/solar/federal-solar-tax-credits-businesses.

Summary of Investment Tax Credit (ITC) and Production Tax Credit (PTC) Values Over Time

			Start of Construction						
			2006 to 2019	2020 to 2021	2022	2023 to 2033	The later of 2034 (or two years after applicable year[a])	The later of 2035 (or three years after applicable year[a])	The later of 2036 (or four years after applicable year[a])
ITC	Full rate (if project meets labor requirements[b])	Base Credit	30%	26%	30%	30%	22.5%	15%	0%
ITC	Full rate (if project meets labor requirements[b])	Domestic Content Bonus				10%	7.5%	5%	0%
ITC	Full rate (if project meets labor requirements[b])	Energy Community Bonus				10%	7.5%	5%	0%
ITC	Base rate (if project does not meet labor requirements[b])	Base Credit	30%	26%	6%	6%	4.5%	3%	0%
ITC	Base rate (if project does not meet labor requirements[b])	Domestic Content Bonus				2%	1.5%	1%	0%
ITC	Base rate (if project does not meet labor requirements[b])	Energy Community Bonus				2%	1.5%	1%	0%
ITC	Low-income bonus (1.8 GW/yr cap)	<5 MW projects in LMI communities or Indian land				10%	10%	10%	10%
ITC	Low-income bonus (1.8 GW/yr cap)	Qualified low-income residential building project / Qualified low-income economic benefit project				20%	20%	20%	20%
PTC for 10 years ($2022)	Full rate (if project meets labor requirements[b])	Base Credit			2.75 ¢	2.75 ¢	2.0 ¢	1.3 ¢	0.0 ¢
PTC for 10 years ($2022)	Full rate (if project meets labor requirements[b])	Domestic Content Bonus				0.3 ¢	0.2 ¢	0.1 ¢	0.0 ¢
PTC for 10 years ($2022)	Full rate (if project meets labor requirements[b])	Energy Community Bonus				0.3 ¢	0.2 ¢	0.1 ¢	0.0 ¢
PTC for 10 years ($2022)	Base rate (if project does not meet labor requirements[b])	Base Credit			0.55 ¢	0.55 ¢	0.4 ¢	0.3 ¢	0.0 ¢
PTC for 10 years ($2022)	Base rate (if project does not meet labor requirements[b])	Domestic Content Bonus				0.1 ¢	0.0 ¢	0.0 ¢	0.0 ¢
PTC for 10 years ($2022)	Base rate (if project does not meet labor requirements[b])	Energy Community Bonus				0.1 ¢	0.0 ¢	0.1 ¢	0.0 ¢

a "Applicable year" is defined as the later of (i) 2032 or (ii) the year the Treasury Secretary determines that there has been a 75% or more reduction in annual greenhouse gas emissions from the production of electricity in the United States as compared to the calendar year 2022.
b "Labor requirements" entail certain prevailing wage and apprenticeship conditions being met.

Q. What other notable characteristics does the IRA allow for the PTC and ITC?

A. Both tax credits are transferable. Transferability allows a taxpayer who generates certain clean energy tax credits to elect to transfer (i.e., sell) all or a portion of a tax credit to an unrelated third-party transferee (i.e., buyer) in exchange for cash. Prior to the IRA, taxpayers were not allowed to sell federal income tax credits outright, which could create a conflict for renewable project developers who were not able to use the tax credits themselves.

In order to get around the transferability limitations, complex tax structures, such as tax equity financing agreements, were created to allow for tax credit investors who would contribute equity to receive an allocation of credits and often depreciation as well. However, these structures were complex and costly, but under the new tax law, these solar tax credits can now be bought and sold one time and in such transactions, the buyer and seller negotiate and agree to the terms and pricing.

Q. Does Ameren Missouri expect to have the tax appetite to fully utilize the tax credits from the projects?

A. Ameren Missouri does expect to have the tax appetite to fully utilize 100% of the PTC or ITCs that they believe are eligible for each of the four projects in this case. The credit utilization may not occur in the same year as the credits become available, in which event Ameren Missouri may wish to sell or transfer some or all of the applicable tax credits in order to maximize the value of the credits. Both the value of the credit itself and/or the transfer value of the credit will be included in the IRA tracking mechanism. This mechanism is discussed later in this testimony.

Q. Are the IRA tax credits subject to normalization?

A. That is an aspect of the IRA that the IRS has not issued definitive guidance and clarification, especially for utilities, considering the requirement for tax normalization. Under the current IRS guidance, ITCs are subject to normalization rules in the same manner as accelerated depreciation. The purpose of normalization is to reconcile the tax treatment of the ITC or accelerated depreciation of public utility assets with their regulatory treatment. The IRS is working on implementing the Inflation Reduction Act of 2022 and has been posting guidance for taxpayers on all credits and deductions from the IRA as it becomes available. On June 20, 2023, the IRS issued proposed rules on transferring renewable energy tax credits, and may issue further guidance regarding normalization in the future.

<u>SOLAR PROJECT QUALIFICATIONS</u>

Q. Did Ameren Missouri obtain a legal opinion that each of the Solar Projects meets the requirements for full value of the PTC or ITC?

A. No. According to the Company's response to Staff Data Request No. 0020, Ameren Missouri did not obtain a formal legal opinion for the Solar Projects indicating that the requirements needed to qualify for 100% PTC or ITC have been met. However, with the support of external legal firm McDermott, Will & Emery, Ameren Missouri completed tax due diligence for the four Solar Projects and concluded that they will qualify for the full value of the ITC or PTC. McDermott, Will & Emery did provide a formal legal opinion that the Cass County and Bowling Green Solar Projects will qualify for the Energy Community 10% bonus tax credit.

Q. Will McDermott, Will & Emery represent Ameren Missouri if a legal dispute ensues over whether Ameren Missouri qualifies for full value of the ITCs and/or PTCs for each of the Solar Projects?

A. This item was also addressed in the response to Staff Data Request No. 0020. According to Ameren Missouri, at this time it is premature to speculate on which law firm may be selected to represent them in a legal dispute, if one should occur, related to tax credit qualification.

Q. Does Ameren Missouri have the ability to determine in advance whether the IRS will confirm whether the projects may or may not be eligible for certain base or bonus tax credits?

A. Ameren Missouri's response to Staff Data Request No. 0136 states that there is no advance process for confirmation of eligibility. However, since 2009 Ameren Corporation and its affiliates have participated in the IRS's Compliance Assurance Process ("CAP") program. This program was developed to improve the federal tax compliance of large corporate taxpayers. As part of CAP, the IRS and the taxpayer work together to achieve tax compliance by resolving issues prior to the filing of the tax return.

As part of the CAP, once a project is placed in service, Ameren Missouri will prepare a disclosure to the IRS explaining its tax position with respect to why Ameren Missouri qualifies for a specific tax credit and any adders. The IRS will then review the disclosure and, no later than when Ameren Missouri files its tax return for that year, will explain whether they agree or disagree with Ameren Missouri's position. Ameren Missouri believes that based upon its Tax Diligence Technical Memos, the IRS will agree with its position.

Q. What were the findings of the tax diligence?

A. In response to Staff Data Request No. 0018, Ameren Missouri provided *** [redacted] *** A summary of the findings for each project are as follows, if the Commission approves the CCNs for the four solar projects:

A. BOWLING GREEN:

*** [redacted]

[redacted]

[redacted][5]

[redacted] ***

[5] The IRS issued guidance on prevailing wage and apprenticeship requirements to qualify for increased credit or deduction amounts on November 30, 2022. By statute, the prevailing wage and apprenticeship requirements generally apply to qualifying facilities where construction begins 60 days or more after the U.S. Department of the Treasury and the Internal Revenue Service publish guidance on those requirements. The IRS released proposed regulations, rules, and definitions regarding the prevailing wage and apprenticeship requirements August 29, 2023.

Ameren Missouri believes the Bowling Green Solar Project qualifies for the full 30% ITC plus the 10% EC bonus. Should Ameren decide to claim PTCs, the Bowling Green Solar Project is also expected to meet similar requirements to be eligible for the full amount of PTCs plus the 10% EC bonus.

B. CASS COUNTY:

Ameren Missouri will acquire the Cass County project pursuant to a Development Transfer Agreement with Savion, LLC, involving a Purchase Sale Agreement ("PSA"). The Cass County Solar Project will begin construction if applicable regulatory approvals are received, and is expected to be completed on or before December 31, 2024.

*** [redacted] ***

Ameren Missouri believes the Cass County Solar Project qualifies for the full 30% ITC plus the 10% EC bonus. Should Ameren Missouri decide to claim PTCs, the Cass County Solar Project is also expected to meet similar requirements to be eligible for the full amount of PTCs plus the 10% EC bonus.

C. SPLIT RAIL:

Split Rail Solar Holdings ("Seller") will develop and construct the Split Rail Solar Project. Once mechanical completion is achieved, the Seller will transfer the Split Rail project to Ameren Missouri pursuant to a Build Transfer Agreement ("BTA"). *** [redacted] ***

The project will begin construction after applicable regulatory approvals and is expected to be completed in 2026.

*** [redacted] ***

Ameren Missouri believes the Split Rail Solar Project qualifies for the full 30% ITC. Should Ameren Missouri decide to claim PTCs, the Split Rail Solar Project is expected to meet similar requirements to be eligible for 100% PTCs.

D. VANDALIA:

*** [redacted][6] [redacted]

[6] IRS Notice 2022-61.

[redacted] ***

Ameren Missouri believes the Vandalia Solar Project qualifies for the full 30% ITC. Should Ameren Missouri decide to claim PTCs, the Vandalia Solar Project will also meet similar requirements to be eligible for 100% PTCs.

Q. Have any other Staff witnesses sponsored testimony in this case regarding ITCs and PTCs?

A. Yes. Please refer to the rebuttal testimony of Staff witnesses Sarah L.K. Lange and J Luebbert for further discussion on this topic.

<u>RESRAM & IRA TRACKER</u>

Q. What is the Missouri Renewable Energy Standard?

A. In 2008, Missouri voters approved the RES that requires investor-owned electric utilities to generate or purchase a certain percentage of retail sales using renewable energy resources. Ameren Missouri complies with the standard through the retirement of renewable energy credits ("RECs"). The percentage for RES compliance has stepped up over several years and currently Ameren Missouri must have the equivalent of 15% of their retail sales by 2021, with two percent of this requirement to be met by solar RECs. Once this level of renewable energy is achieved, it must be maintained.

Q. Does Ameren Missouri have plans to use any of the Solar Projects within this docket to meet RES requirements?

A. Not currently. Ameren Missouri has been approved by the Commission, in Case No. EA-2022-0244, to acquire, through a BTA, the Huck Finn solar generation facility. This project is expected to be completed in 2024 and will support Ameren Missouri's compliance with the Missouri Renewable Energy Standard. According to the Company's response to Staff Data Request No. 0134, at this time, Ameren Missouri has no plan to designate any of the solar projects in this case as RES compliance assets, but it is possible that Ameren Missouri's RES compliance plan could change. So, similar to its position on whether to use any of the assets for the Renewable Solutions Program, Ameren Missouri wishes to retain flexibility as to the purpose of each facility.

Q. How would Ameren Missouri record the IRA tax credits for each solar project should it choose to utilize them for RES compliance purposes?

A. Ameren Missouri personnel have relayed to Staff that for projects designated for RES compliance, 85% of project capital (return on and return of the project through depreciation) will be recorded using Plant-In-Service Accounting ("PISA"), and 15% of project capital as well as 100% of the O&M expense will go into the RESRAM including any associated IRA tax credits.

Q. What is RESRAM?

A. This acronym refers to the Renewable Energy Standard Rate Adjustment Mechanism ("RESRAM"), which is a special ratemaking mechanism that allows Ameren Missouri to periodically adjust rates outside of a general electric rate case to reflect prudently incurred RES compliance costs. These costs would be costs beyond those already included in the company's base rates.

Q. How will Ameren Missouri account for project costs and IRA tax credits for projects not designated for RES compliance?

A. For projects not used for RES compliance, 85% of project capital (return on and return of the project through depreciation) will be recorded using Plant-In-Service Accounting ("PISA"), and the tax credits would then go into the IRA tracker.

Q. Please explain the IRA tracker.

A. A Stipulation and Agreement was ordered by the Commission, effective June 24, 2023, as part of Ameren Missouri's last rate case No. ER-2022-0337. A tracking mechanism was established as part of that agreement, setting its base to $0 in order to begin tracking IRA PTCs and ITCs (subject to Internal Revenue Service normalization requirements) either utilized to offset tax liabilities or otherwise sold to another person, except as otherwise tracked in Ameren Missouri's RESRAM. The purpose of the IRA tracker is to ensure that all of the tax credits arising as a result of the IRA will benefit ratepayers in the form of lower rates rather than be lost due to regulatory lag. Any tax credit amount that is already being recovered through base rates or tracked through existing regulatory mechanisms is excluded from the tracker to prevent double recovery.

Q. What is PISA?

A. Plant-In-Service Accounting requires electrical corporations to defer and recover 85% of all depreciation expense and return for qualifying electric plant recorded to plant-in-service on the utility's books. For further discussion of PISA implications for the Solar Projects, please see Staff witness Paul K. Amenthor's rebuttal testimony.

SOLAR PROJECT TAX STRATEGIES

Q. Has Ameren Missouri indicated which type of tax strategy will be utilized with each project?

A. According to Ameren Missouri witness Mr. Steven M. Wills:

> While at the present time it appears that use of the ITC for each of the Solar Projects will be most beneficial for our customers, the final tax strategy for each of the Solar Projects will be independently determined based on the specific facts applicable to the specific resource in question. The ultimate decision on which form of tax credit to claim will not be made until it is required to be made for purposes of utilizing the credits. That is true because it makes the most sense to make the tax election with the most complete information possible about the details of the Solar Projects, including the total project cost, the applicability of certain "adders" that may be available for particular projects such as whether they are located in an "Energy Community" as defined by the IRA, production expectations, and any other information that may become relevant to the decision (such as clarification of rules for normalization of the ITC that may be forthcoming from the Internal Revenue Service ("IRS")). At the time that the Company is required to elect PTCs or ITCs, it will elect the form of credit that the facts show will be most beneficial to customers based on the best information available at that time, which will almost certainly be more complete than the information that is available today.[7]

Q. When does Ameren Missouri have to determine whether it elects the ITC or PTC for each of the solar projects?

A. For each of the four solar projects, Ameren Missouri must make its election as to whether the ITC or PTC will be utilized for each individual project on the tax return for the year each project is placed into service. This means that the election must be made by the earlier of the extended due date of the tax return (September 15) or the actual filing date during the year the project is placed in service. The solar projects have the following anticipated in-service dates:

- Cass County – 2024;
- Split Rail – 2026;
- Bowling Green – 2026;
- Vandalia – 2025.

[7] Steven M. Wills Direct pg. 23, ll. 6 - 19.

Q. What is tax equity financing?

A. As mentioned earlier in this testimony, generally tax equity financing is a method in which an investor (tax equity partner ("TEP")) provides funding for a project in exchange for the right to claim the available tax credits.

Q. Does Ameren Missouri intend to utilize tax equity financing for any of the four Solar Projects?

A. In his direct testimony, Mr. Wills states that Ameren Missouri does not intend to use a TEP for any of the Solar Projects as the IRA included provisions making the PTC and ITC transferable. However, should the IRS issue further guidance suggesting that tax equity financing may be beneficial to customers, the Company may consider engaging a TEP. If Ameren Missouri decides to engage a TEP for any of the Solar Projects, the Company will return to the Commission in the future to request approval to utilize tax equity financing.[8]

STAFF RECOMMENDATION

Q. What is Staff's recommendation?

A. Should the Commission approve any or all of the Solar Projects included in this case, Staff recommends the following:

1. For each Solar Project, Ameren Missouri should utilize the tax strategy that is most beneficial to customers.
2. Ameren Missouri is to notify Staff within this docket of which tax credit they have elected to utilize for each Solar Project as soon as that decision is made.

[8] Steven M. Wills Direct pg. 24, ll. 4 - 12.

3. Ameren Missouri is to provide Staff with an analysis during a rate case proceeding demonstrating that the tax strategy ultimately chosen for each Solar Project was indeed the most beneficial to customers.
4. Ameren Missouri is to notify Staff within this docket if a decision is made that one or more of the Solar Projects will be utilized for RES compliance, as this determines the ultimate ratemaking treatment for the project(s).

Q. Does this conclude your Rebuttal testimony?

A. Yes, it does.

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of the Application of Union Electric Company d/b/a Ameren Missouri for Permission and Approval and Certificates of Public Convenience and Necessity Authorizing it to Construct Renewable Generation Facilities	)))))	Case No. EA-2023-0286

AFFIDAVIT OF JANE C. DHORITY

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

COMES NOW JANE C. DHORITY and on her oath declares that she is of sound mind and lawful age; that she contributed to the foregoing *Rebuttal Testimony of Jane C. Dhority*; and that the same is true and correct according to her best knowledge and belief.

Further the Affiant sayeth not.

Jane C Dhority

JANE C. DHORITY

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 11th day of October 2023.

LISA M. FERGUSON
Notary Public - Notary Seal
State of Missouri
Commissioned for St. Louis County
My Commission Expires: June 23, 2024
Commission Number: 16631502

Lisa M. Ferguson

Notary Public

Jane C. Dhority

Present Position:

I am a Senior Utility Regulatory Auditor, Auditing Department, Financial & Business Analysis Division of the Missouri Public Service Commission. As a Senior Utility Regulatory Auditor, I assist in research and analysis of the financial aspects of public utility operations.

Educational Credentials and Work Experience:

I received a Bachelor of Science in Accounting from the University of Missouri – St. Louis in December 2018. I have been employed by the Missouri Public Service Commission since April 2019. Prior to joining the Commission, I worked in the food service industry and was employed by Jimmy's Café on the Park from 2011 to 2016. I also held positions at the Hilton St. Louis Downtown from 2009 to 2011, and at Square One Brewery from 2007 to 2009.

Past Rate Case Proceedings:

Company Name	Case No.	Issue(s)
Confluence Rivers UOC (WATER)	WR-2023-0006	Website Expense, Line Locating Costs, Billing Software Expense, Call Center Contract Costs, External Audit & Accounting Fees, Legal Expense, PSC Assessment, Rate Case Expense, Cash Working Capital Lead/Lag Study, Miscellaneous Expense, Lab Testing Fees
Ameren UE (ELEC)	EA-2022-0245	PISA, Recordkeeping Issues, Revenue Tracker
Spire Missouri Inc. (GAS)	GR-2022-0179	Payroll, Payroll Taxes, Overtime, Employee Benefits, Pensions & OPEBs, SERP, Rate Case Expense, External Audit/Overhead Study Fees
Liberty MNG (GAS)	GT-2022-0118	ISRS Filing

Company Name	**Case No.**	**Issue(s)**
Ameren UE (GAS)	GR-2021-0241	Advertising, Promotional Giveaways, Rents & Leases, Lobbying, Dues & Donations, Miscellaneous Expense, Expense Reports, Capitalized O&M Depreciation, Cash Working Capital, Board of Directors Fees, Customer Convenience Fees
Ameren UE (ELEC)	ER-2021-0240	Advertising, Promotional Giveaways, Rents & Leases, Lobbying, Dues & Donations, Miscellaneous Expense, Expense Reports, Capitalized O&M Depreciation, Cash Working Capital, Board of Directors Fees, Customer Convenience Fees
Ameren UE (ELEC)	ER-2019-0335	Plant in Service, Depreciation Reserve, Other Rate Base Items, Interest on Customer Deposits, Capitalized O&M Depreciation, PSC Assessment, Advertising
Ameren UE (ELEC)	EO-2019-0391	Asset Sale