

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

In the Matter of the Petition of)	
Union Electric Company d/b/a Ameren)	File No. EF-2024-0021
Missouri for a Financing Order)	
Authorizing the Issue of Securitized)	
Utility Tariff Bonds for Transition Costs)	
Related to Rush Island Energy Center)	

**INITIAL POST-HEARING BRIEF OF
THE MISSOURI INDUSTRIAL ENERGY CONSUMERS**

COMES NOW the Missouri Industrial Energy Consumers (“MIEC”) and for its Initial Post-Hearing Brief states as follows:

- I. Rush Island’s securitized costs should be allocated to customer classes as an equal percentage of base rate revenues, the same way that other increases in non-fuel costs should be reflected in rates.**

The MIEC’s evidence in this case shows that the Rush Island costs to be securitized in this case should be allocated to the customer classes based on demand, similarly to how those costs are allocated in rates.¹

Ameren’s decision to retire Rush Island was an economic decision resulting from certain court orders that have required the installation of expensive scrubbers to continue to operate the units. This is explained in the Direct Testimony of Ameren witness Mark Birk:

By the time the District Court’s order to scrub Rush Island became final, circumstances had made the continued operation of coal-fired plants extremely challenging. EPA’s proposals to regulate carbon emissions from existing coal-fired power plants creates serious risks to the viability of these assets – risks that would make investing hundreds of millions of dollars in a scrubber in such assets imprudent. Faced with these realities, the only prudent option was to shut down Rush Island instead of adding scrubbers. The District Court approved this decision on September 30, 2023.²

¹ Ex. 551, Surrebuttal Testimony of Maurice Brubaker at p. 3, ll.

² Ex. 6, Direct Testimony of Mark C. Birk, p. 2, ll. 19-22 – p. 3, ll. 1-2.

The unrecovered costs of the Rush Island units are fixed costs. These costs are currently collected in Ameren's base rates and have always been allocated based on demand and not based on energy. Ameren has historically treated these costs as demand-related fixed costs and has always allocated these costs to customers based on their demands in its prior cost-of-service studies. Ameren has never proposed to allocate the fixed costs of Rush Island on an energy basis, and the Commission has never supported an allocation of Ameren's fixed costs based on class kWh.³

The nature of the cost to be recovered should be a factor in determining how those costs should be recovered from the various customers and customer classes. Just like in any other aspect of regulation and ratemaking, the method chosen for cost recovery should be related to the nature of the cost to be recovered⁴. If rates are to bear a reasonable relationship to cost, then the method used to allocate those costs among customer classes should be determined by the nature of the cost. For example, fuel costs are variable costs that are related to energy produced and are typically allocated to and recovered from customers based on the kWh they purchase. Fixed costs, such as depreciation, return on investment and related income taxes, do not vary with kWh consumption and thus should not be recovered from customers based on their kWh purchases.⁵

³ Ex., 551, Brubaker Surrebuttal at p. 9, ll.

⁴ Ex. 550, Brubaker Rebuttal at p. 6, ll. 20-24.

⁵ Id., p. 6, ll. 1- 6.

The nature of the costs which Ameren proposes to securitize in this case are fixed costs. These are summarized in the Ameren Witness Lansford's Direct Testimony.⁶ None of these costs are considered variable or energy-related. These costs do not vary with the number of kWh produced or consumed. None of these costs in any way are, or relate to, variable cost. Given the nature of the costs to be securitized, recovery of these costs from customers based on an energy allocation is unreasonable.⁷

Ameren's witness Steve Wills testified that the MIEC witness Brubaker's approach is reasonable. In his Surrebuttal Testimony, Mr. Wills states as follows:

I certainly understand the rationale that Mr. Brubaker presents, and do not disagree with his assessment that the nature of the costs being recovered do not vary with kWh consumption. The cost allocation approached advocated for by MIEC would unquestionably be another reasonable alternative for the Commission to consider.

Exhibit 20, Surrebuttal Testimony of Steven Wills p. 18 l. 22 – p. 19, l. 2.

II. Ameren's Evidence Supports Reliance on the Evergy and Liberty Cases Misplaced and Inconsistent with the Evidence in This Case

There are two prior cases with very different facts in which the Commission has previously applied Section 393.1700 RSMo, one involving Evergy Missouri West

⁶ The major component of costs to be securitized resulting from retirement is plant in service of approximately \$475 million. Added to this are such items as capital projects not completed (\$13 million), materials and supplies (\$18 million) and various other items including a credit for the net present value of certain tax benefits, resulting in total Rush Island costs of \$512 million. Ameren Missouri adds \$7 million of upfront financing costs to arrive at a total cost to be financed of approximately \$519 million.⁶

The financing costs to be paid by customers are shown on Schedule MJL-D-1 to Mr. Lansford's testimony, showing that with an assumed interest rate of 5.59 percent and a loan term of 15 years, including certain ongoing costs, the monthly revenue requirement would be approximately \$4.3 million. This accumulates to annual cost of approximately \$52 million.

⁷ Ex. 550, Brubaker Rebuttal p. 7, l. 1 – p. 8, l. 2.

(“Evergy”)⁸, and the other involving the Empire District Electric Company d/b/a Liberty (“Liberty”)⁹. These cases are pertinent in the present case only because Ameren witness Steve Wills explicitly and solely relies on these two cases for selecting the per kWh allocation of costs to be recovered. Specifically, Mr. Wills states as follows:

Q. How does Rider SUR allocate this revenue requirement to the various customer classes?

A. The costs are allocated to classes based on the loss adjusted energy consumption of those classes. The Company is mindful that two other electric utilities in Missouri – Liberty Utilities and Evergy – have preceded it in instituting securitization tariffs. The Company chose to mirror the cost recovery framework ordered by the Commission in the Liberty securitization case and agreed to among the parties to Evergy’s case.

Other than referring to these orders, Mr. Wills does not provide the rationale for his selected method of cost recovery.¹⁰ In his Surrebuttal Testimony, Mr. Wills provides further explanation of the initial recommendation in his Direct Testimony:

The Company’s primary recommendation was premised on driving consistency with the prior securitization decisions and thus allocated the costs on a loss-adjusted energy basis.¹¹

In the Evergy and Liberty cases, the predominant amount of costs to be securitized involved extraordinary variable costs incurred by these utilities in February 2021 during Winter Storm Uri. These costs were variable in nature and would ordinarily have been recovered through the fuel adjustment clause. Therefore, it was logical to recover the securitization cost in the same manner.¹²

⁸ *Report and Order*, File No. EF-2022-0155 (“Evergy Order”).

⁹ *Amended Report and Order*, File No. EO-2022-0040, EO-2022-0193 (“Liberty Order”).

¹⁰ Ex. 19, Direct Testimony of Steve Wills, p. 9, ll. 14-21 (emphasis added).

¹¹ Ex. 20, Surrebuttal Testimony of Steve Wills, p. 20, ll. 5 – 7.

¹² Brubaker Rebuttal, p. 8, ll. 3 – 8, citing *Report and Order*, Case No. EF-2022-0155.

In the Evergy case, the utility applied for a financing order authorizing securitization of extraordinary costs of Winter Storm Uri. The Commission found that in February of 2021, Evergy incurred approximately \$308 million in fuel and purchased power costs over and above its average February fuel and purchased power costs in the years 2018 through 2020. The Commission’s Amended Report and Order concluded as follows:

Winter Storm Uri costs consist primarily of fuel and purchased power costs that would typically be recovered through the FAC. Through the FAC, the net costs are recovered on the basis of energy consumption, as adjusted for losses. Staff’s recommended approach would be for the SUTC to be recovered from all applicable customers on the basis of loss-adjusted energy sales.¹³

The Commission noted that Evergy’s fuel adjustment clause allowed Evergy to recover only 95 percent of its fuel and purchased power costs, rather than 100 percent. In determining the appropriate cost allocation for the securitization, the Commission concluded that “[r]ecovery through securitization requires a comparison to recovery absent securitization”.¹⁴

In the Liberty case, the Commission issued a securitization order approving consolidated applications seeking (1) a financing order seeking authority to issue securitization of extraordinary costs due to Winter Storm Uri and (2) a financing authority to issue securitized utility tariff bonds to recovery energy transition costs associated with retirement of Liberty’s Asbury coal-fired generating plant. The Commission quantified the components of securitized costs as follows:

Recovery of Securitized Utility Tariff Costs. Liberty is authorized to recover \$199,561,572 of its extraordinary costs related to Winter Storm Uri and \$81, 241,471 of energy transition costs related to the retirement of Asbury for a total recovery of \$280,803.043. The upfront financing costs are estimated to be \$7.9 million, which will be updated through the issuance advice process. The Commission determined that, given the likelihood of increased costs that would result from separate

¹³ Evergy Order at pp. 61-62.

¹⁴ Id. at t pp. 63-64.

securitizations, it would issue a single financing order both the energy transition cost and the qualified extraordinary cost.

The Commission explained its reasoning as follows:

189. If Liberty's Winter Storm Uri related qualified extraordinary costs had been recovered through Liberty's Fuel Adjustment Clause in the absence of a securitization option, those costs would have been allocated to Liberty's customers proportionate to the energy usage, adjusted for losses.

190. The benefits derived from closing Asbury are expected to flow to customers through decreased net costs of participation in Southwest Power Pool's Integrated Market. Those benefits are allocated to customers through the fuel adjustment clause on the basis of loss-adjusted usage. Therefore, Liberty's Asbury related transition costs should also be allocated on the basis of energy usage, adjusted for losses.¹⁵

MIEC witness Maurice Brubaker agrees with the Commission's decisions in those cases that it was appropriate for the Commission to direct these securitization costs to be recovered from customers on a kWh basis. The Winter Storm Uri costs amounted to approximately \$200 million, or 71 percent of the total, and the Asbury-related costs that were designated as energy-related amount of \$81 million, or 29 percent of the total. Accordingly, the costs being recovered in this proceeding were all energy-related and appropriately recovered based on class kWh usage.¹⁶

Ameren's proposal to recover non-fuel costs on a kWh basis is inappropriate because takes a position which at odds with the Commission's decisions in the Evergy and Liberty securitization cases. In contrast, MIEC witness Brubaker supports an allocation based on base rate (non-fuel) revenues of the various customer classes. This is a familiar and easily implemented approach. To collect the revenue requirement, the base rate revenues of every class would be multiplied by the same percentage, maintaining the existing relationship

¹⁵ Exh. 550, Rebuttal Testimony of Maurice Brubaker at p. 8, l. 18 – p. 9, l. 14, *citing* Liberty Order pp. 86 -88.

¹⁶ *Id.* at p. 9, ll. 15-21 *citing* Liberty Order, pp. 86 – 88.

among customer classes for non-fuel costs and is consistent with the Commission observation in the prior securitization cases that “[r]ecovery through securitization requires a comparison to recovery absent securitization”.

III. Mr. Brubaker’s Proposed Allocation of the Rush Island Securitized Costs is the Most Reasonable Method, Is Easily Administered, Is Consistent with the Evergy and Liberty Decision, and Is Supported by Ameren’s Evidence

Schedule MEB-1 to the Rebuttal Testimony of Maurice Brubaker indicates what the proper allocation for non-fuel costs should be. This schedule relies upon class base rate revenues from the recently concluded rate case in Case No. ER-2022-0337. It shows that the annual bond cost of \$52,017,276 is 1.816% of base rate revenues of \$2,864,661,727. In practice, this uniform percentage of 1.816% would be applied to the base rate component of the monthly bills for each customer. Base rates consist of the customer, demand and energy charges that are used to calculate the bill sent to customers. Base rate revenues for lighting classes would also include charges for lighting fixtures and other components. The base rate revenues would be before any surcharges or sur-credits and do not include FAC, Rider B or C credits, or other components.¹⁷

In the Commission’s order in the Liberty securitization case, the Commission addressed an issue of the potential rate switching resulting from one of the allocation methods that was proposed. This would not be a problem in the context of the present case, because Mr. Brubaker’s proposal is essentially an equal percentage adjustment to all tariffs. This approach maintains the relative relationships among the various rate schedules and, just

¹⁷ Ex. 550, Brubaker Rebuttal, p. 9, l. 22 – p. 10, l. 17 and Brubaker Rebuttal Schedule MEB-1.

like in recent rate cases where increases were allocated as an equal percentage of base rate revenues, the allocation itself should not change any rate-switching incentives.¹⁸

At the evidentiary hearing on cross-examination, Mr. Wills was questioned regarding the appropriate cost allocation for Rush Island. Mr. Wills stated that the costs to be securitized are fixed in nature, and that generally fixed costs aren't normally recovered to an energy only allocation. Mr. Wills also stated that in terms of conceptual approach to designing rates, he agreed that some costs are recovered through a demand charge, some are recovered through an energy charge, and some are recovered through a customer charge.¹⁹ Mr. Wills stated that he understood Mr. Brubaker's proposed recovery method which would recover the securitized amount through a uniform percentage of a customer bill, compared to what Mr. Wills offered in his Direct Testimony. Mr. Wills also stated that if the Commission ordered Ameren to implement that, it would be able to do so, and was not aware of any reason that Ameren would not still be able to issue bonds in the market related to these costs.

Mr. Wills agreed that it was correct that the energy-based collection of Rush Island securitization costs recommended in his Direct Testimony was chosen to mirror the recovery method from the Liberty and Evergy securitization cases. Mr. Wills also agreed that if all of the costs in the Evergy are variable costs case related to Winter Storm Uri, that these costs would otherwise be collected through the fuel adjustment clause, absent a deferral for an extraordinary event. Mr. Wills testified that he agreed that Mr. Brubaker accurately excerpted the Commission's order that Winter Storm Uri costs would otherwise be recovered through the fuel adjustment clause. He also agreed subject to check that Mr. Brubaker

¹⁸ Mr. Brubaker is not specifically recommending that the test year numbers that he used were the appropriate ones for this case; rather, he presented these for purposes of demonstrating the concept and how to apply the concept. In practice, it would be reasonable to use a more recent period illustrating the methodology and application of cost recovery factors.

¹⁹ Tr. p. 85, ll. 3 – 12.

correctly assessed the costs to be recovered in the Empire Liberty case; that 71 percent of the total costs could have been recovered through the fuel adjustment clause and the balance of the 29 percent related to the closing of the Asbury plant were expect to benefit customers to decrease net costs or participation in the Southwest Power Pool that would flow through the fuel adjustment clause to them, with the exception that he considered the Asbury retirement costs to be similar in nature to the Rush Island costs. Mr. Wills agreed with Mr. Brubaker that fixed costs are not collected through the fuel adjustment clause, and he noted that whenever Ameren Missouri has performed a class cost of service study, those costs have been treated as demand related and allocated among customer classes a fixed cost.²⁰ Mr. Wills stated that he agreed with Mr. Brubaker's assessment that the nature of the costs being securitized did not vary with kWh consumption.

Mr. Wills affirmed that he agreed that Mr. Brubaker's proposed allocation approach as a reasonable alternative. However, he also noted that stated in his Direct Testimony that an allocation on base rate revenues was rejected in the Liberty case, and that the Commission's rationale for choosing loss adjusted energy cost was expressed with respect to why it was just and reasonable for recovery of the Asbury plant. Mr. Wills was then asked:

Q. Isn't it true that what was rejected in the Liberty case was a proposal to allocate variable costs on the basis of base rate revenues . . .that is the opposite of the situation here, do you agree?

A. I don't know, I think that's a way you could view that order.

Then further on in cross examination:

Q. Do you agree that the Liberty case opinion by the Commission, the order rejected a proposal to allocate variable cost on the basis of base rate revenues?

A. So it rejected a proposal and that proposal would have allocated – in my –

²⁰

Q. With allocated variable costs on the basis of base rate revenues, do you agree?

A. Yes, I think I do.

Tr., pp. 80-94. Based on Mr. Wills' testimony, it is fair to say that he finds the approach recommended by Mr. Brubaker to be reasonable, and can be fairly viewed as consistent with the Commission's two prior securitization decisions.

IV. CONCLUSION

Mr. Brubaker's proposal is superior to the other proposals that have been made in this case for the following reasons. First, the unrecovered costs of the Rush Island units are fixed costs and have historically been treated as demand-related fixed cost and allocated in all Ameren-prepared class cost of service studies. At no time have the fixed costs of Rush Island been proposed to be allocated on a kWh basis by Ameren, nor has the Commission ever supported an allocation of fixed costs associated with Ameren on the basis of class kWh. These costs of Ameren that are to be securitized are currently collected in Ameren's base rates, and have been allocated on the basis of demands, not energy. It is appropriate that the cost of the securitization be allocated among customer classes in a manner that is similar to how the underlying costs are allocated in rates.

Respectfully submitted,

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**CERTIFICATE OF
SERVICE**

I do hereby certify that a true and correct copy of the foregoing document has been emailed to all parties on the Commission's service list in these cases.

/s/ Diana M. Plescia