

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

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

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**REPLY BRIEF OF MIDWEST ENERGY CONSUMERS GROUP**

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May 17, 2024

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OF THE STATE OF MISSOURI**

In the Matter of the Petition of Union Electric            )  
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**Reply Brief of Midwest Energy Consumers Group**

COMES NOW, the Midwest Energy Consumers Group, (“MECG”), and for its Reply Brief, respectfully states:

**Allocation of Revenue Requirement**

The Commission should adopt the allocation approach of a uniform percent charge to base rate components of a customer’s monthly bill as proposed in the testimony of Mr. Brubaker. This method suits the facts and circumstances in this case and ensures the securitized bonds are recovered from customers in a just and reasonable way.

Aside from MECG, other parties addressed the allocation of securitized costs in their initial briefs. Those positions are summarized in the chart below:

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Party	Summary of initial brief position	MECG response
Missouri Industrial Energy Consumers	A uniform percentage applied to the base rate component of the monthly bills for each customer.	MECG agrees.
Ameren Missouri	Both the loss-adjusted energy allocation method it proposed, and the uniform percent method proposed by Mr. Brubaker are reasonable.	MECG agrees in part and disagrees in part.
Office of Public Counsel	No party has offered evidence why the Commission should deviate from the energy usage volumetric (per kWh) approach ordered in other cases.	MECG disagrees. <i>See</i> the testimony of Mr. Brubaker.
Consumers Council	An allocation based on loss-adjusted energy is reasonable.	MECG disagrees.
Commission Staff	<p>An allocation based on loss-adjusted energy consumption is more workable than the uniform percent applied to base rate components.</p> <p>If the Commission orders allocating the charge to individual customers as a percentage of their bill, then the charges should be assessed on the basis of a non-discounted bill.</p>	<p>MECG disagrees with the Staff's view that a uniform percentage basis is unworkable.</p> <p>MECG does not object to Staff's proposal that if a uniform percent approach is used then it should be based on non-discounted rates.</p>

Response to MIEC

The Missouri Industrial Energy Consumers (“MIEC”) favors the uniform percentage allocation method supported in the testimony of Mr. Brubaker. “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.”<sup>1</sup> MECG agrees.

*Proposed findings:*

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<sup>1</sup> MIEC Br., p. 7.

- *The securitized costs in this case should be recovered through a uniform percentage applied to the base rate components of each customer's monthly bill.*
- *The base rate components for this purpose include the customer, demand, and energy charges.*

### Response to Ameren Missouri

Ameren Missouri still tentatively supports the energy allocation proposed in its direct testimony but recognizes that Mr. Brubaker's approach is both reasonable and workable. "[B]oth the cost allocation method it proposed, and the method proposed by Missouri Industrial Energy Consumers ("MIEC") witness Brubaker are within the Commission's authority to adopt. The Company recommended its approach premised on driving consistency with the prior Commission securitization decisions. The Company would not have significant concerns, however, if the Commission was persuaded by MIEC's arguments and chose to allocate the costs on the basis of base rate revenues."<sup>2</sup>

MECG agrees in part, and disagrees in part. The allocation method proposed by the company in its direct filing would be consistent with the allocation method in the Evergy West and Liberty Empire securitization cases. However, that approach is inappropriate in this case based on the specific facts and circumstances related to the nature of the underlying costs. Only the approach proposed in the testimony of Mr. Brubaker is just and reasonable in this case.

#### *Proposed findings:*

- *The major component of the amount to be securitized is the net plant in service of Rush Island energy center of approximately \$475 million.*
- *The underlying costs to be securitized in this case are "fixed" in nature.*

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<sup>2</sup> Ameren Missouri Br., p. 78.

- *Fixed costs – such as depreciation, return on investment, and associated taxes – do not vary with kWh consumption.*
- *Fixed costs are not normally recovered through an energy only allocation.*
- *In the Evergy West and Liberty-Empire cases, the majority of the costs were related to extraordinary variable costs incurred by those utilities in February 2021 during winter storm Uri.*
- *The nature of those costs were variable rather than fixed and would ordinarily be recovered through the fuel adjustment clauses of the respective utility.*
- *For the Rush Island costs considered in the present case, these are fixed costs that should not be recovered on the basis of energy alone.*
- *The uniform percent charge to the base rate components of each customer’s monthly bill for recovery of these securitized costs is more closely related to the related to the nature of the cost than an energy only allocator.*

### Response to OPC

The Office of the Public Counsel (“OPC”) argues, essentially, that because the Commission has previously ordered that the securitized costs in other cases should be recovered on an energy charge that should be the default method. Stating: “[n]o party has offered persuasive evidence or argument for why the Commission should deviate from the consistent energy usage volumetric (per kWh) approach to calculating securitization charges that it adopted for Empire in Case Nos. EO-2022-0040 and 0193, and for Evergy West in Case No. EF-2022-0155.”<sup>3</sup> MECG disagrees. Rather than relying on a “default” method and shifting evidentiary burdens, the Commission should base allocation on the specific facts and circumstances of each case to be

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<sup>3</sup> OPC Br., p. 41.

decided. Here, the specific facts and circumstances presented in this case show that the costs to be securitized are “fixed” in nature and that these costs would not be recovered through an energy-only charge in a normal rate case process. The testimony of Mr. Brubaker that these costs are “fixed” in nature is unrebutted. Under these circumstances, a uniform percent charge to the base rate components of each customer’s bill is the most just and reasonable allocation method.

*Proposed findings:*

- *Same as above.*

Response to Consumers Council

Consumer’s Council argues that “[r]esidential customers should not be unfairly disadvantaged by an allocation method that shifts such allocation of costs away from energy usage.”<sup>4</sup> This is the exact opposite position of what the facts and circumstances in this case require. The evidence in the record shows that these fixed costs to be securitized would not be allocated on the basis of energy usage alone. Contrary to what Consumers Council implies, the shift of any cost responsibility only occurs if the kWh allocation supported by Consumers Council is adopted.

*Proposed finding:*

- *Customers are unfairly disadvantaged when the recovery of costs does not have a relationship to the nature of the underlying cost.*

Response to Staff

In its initial brief, Staff Staff supports an allocation based on loss-adjusted energy consumption.<sup>5</sup> Staff alleges that Mr. Brubaker’s proposal of a uniform percent charge to the base rate component is unworkable.<sup>6</sup> Staff suggests that if the Commission orders allocating the charge

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<sup>4</sup> Consumers Council Br., p. 4.

<sup>5</sup> Staff Br., p. 27.

<sup>6</sup> Staff Br., pp. 28-29.

to individual customers as a percentage of a bill, that the charges should be assessed on the basis of a non-discounted bill.<sup>7</sup>

MECG disagrees with Staff's loss-adjusted energy allocation because the nature of the costs at issue in this case would not be recovered in that manner under sound regulatory principles. MECG also disagrees with the Staff's view that a uniform percentage basis is unworkable. This basic approach has been adopted in other states and is mechanically similar to the "gross receipts" tax that customers already see on their bills. Ameren Missouri's witness testified that the company would be able to implement Mr. Brubaker's approach. Lastly, MECG does not object to Staff's proposal that the uniform percent approach should be based on non-discounted rates, if adopted.

*Proposed finding:*

- *The uniform percentage applied to base rate components should be assessed on the basis of the non-discounted bill.*

## **Conclusion**

What is just and reasonable depends on the facts and circumstances of each case.<sup>8</sup> Here, the specific facts and circumstances make a voltage adjusted kWh allocation of these Rush Island costs unreasonable, and so, it should be rejected. Instead, the Commission should allocate these costs based on a uniform percent charge applied to the base rate components of a customer's monthly bill as proposed in the testimony of Mr. Brubaker. His method has been implemented in other jurisdictions and, of the approaches for the Commission to consider in this case, most closely matches the recovery to the underlying nature of the costs at issue.

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<sup>7</sup> Staff Br., p. 31.

<sup>8</sup> *Matter of Empire District Elec. Co. v. Public Service Commission*, 672 S.W.3d 868, 880 (citing *State ex rel. Mo. Gas Energy v. Pub. Serv. Comm'n*, 86 S.W.3d 376, 384 (Mo. App. 2005)).

WHEREFORE, MECG submits its Reply Brief.

Respectfully,

**/s/ Tim Opitz**

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Certificate of Service

I hereby certify that copies of the foregoing have been emailed to all counsel of record this 17<sup>th</sup> day of May 2024:

**/s/ Tim Opitz**

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