

**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) GR-2024-0369
Revenues for Natural Gas Service.)

**MOTION FOR RECONSIDERATION TO ALLOW PARTIES TO MAKE DISCRETE
ADJUSTMENTS BEYOND THE TRUE-UP DATE BUT BEFORE FINAL RATES GO
INTO EFFECT**

COMES NOW Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri or Company"), and pursuant to 20 CSR 4240-2.160(2), files this motion for reconsideration of the Commission's October 30, 2024, Order Setting Procedural Schedule in which the Commission denied the Company's motion for a discrete adjustment beyond the end of the test year, but before final rates were in effect. In support of its motion for reconsideration, the Company respectfully requests the Commission reconsider based on the following:

I. INTRODUCTION

1. Ameren Missouri filed tariffs to increase its revenues to recover investment costs associated with significant capital investments to ensure the safety and reliability of the natural gas system. Contemporaneously with its filing, Ameren Missouri filed a Motion to Allow Parties to Make Discrete Adjustments Beyond the True-up Date But Before Final Rates Go Into Effect ("Motion"). The Company's approach is consistent with the Commission's recent agenda discussions and the procedural order issued on August 7, 2024, in File No. WR-2024-0320.

2. On October 24, 2024, Staff filed a response to Ameren Missouri's Motion and OPC filed its response to the Motion on October 27, 2024. The Company filed a reply on October 30, 2024. The Commission issued a procedural schedule on October 30, 2024, and denied the Motion

without any discussion or reasoning for the denial. Consequently, the procedural schedule does not allow for parties to submit evidence to support or evidence to reject discrete adjustments after December 31, 2024. The Company respectfully requests the Commission reconsider its decision and allow the parties an opportunity to fully develop the record in this case with the facts supporting the parties' positions so that the Commission can make a factual determination on whether the inclusion of such discrete adjustments in the revenue requirement used to set future rates is reasonable.

II. LEGAL STANDARD

3. Under Commission Rule 20 CSR 4240-2.160(2), a motion for reconsideration of procedural and interlocutory orders may be filed within ten (10) days of the date the order is issued, unless otherwise ordered by the Commission. Motions for reconsideration must specify the on what grounds in which the applicant considers the order to be unlawful, unjust, or unreasonable. *Id.*

4. The Commission has the authority and discretion to grant or deny motions and the Company is not asserting the Commission's denial is unlawful. The Commission's Order, however, does not provide a rationale for its decision or distinguish the facts of this case from the facts of the other cases where discrete adjustments were allowed after the test year but before final rates went into effect.

5. In light of past Commission decisions allowing discrete adjustments after the test year, but before final rates go into effect,¹ the decision denying the Motion is unjust and unreasonable.

¹ See *In the Matter of Laclede Gas Company's Tariff to Revise Natural Gas Rate Schedules*, File No. GR-2002-356 (2002 WL 1379268 (Mo.P.S.C.)), (Final Order issued March 19, 2002, effective March 29, 2002), footnotes omitted (“Both the ‘test year as updated’ and the true-up are devices employed to reduce regulatory lag, which is ‘the lapse of time between a change in revenue requirement and the reflection of that change in rates.’”) See also WR-2020-

6. A decision on the appropriate test period and adjustments to be used when establishing rates is a factual determination. *State ex rel. GTE North, Ins. V. Missouri Public Service Com'n*, 835 S.W.2d 356 (Mo. App.W.D.1992). Under the schedule adopted by the Commission, Ameren Missouri is the only party in this case who currently filed testimony in this case. Without a complete record and a procedural schedule that allows time to support discrete adjustments, there is insufficient evidence to support the assertion that the second phase of the Northeast Territory project, Highway 161 to Silex ("Northeast Territory Phase 2") "is not known and measurable and will not be known into service until after the evidentiary hearing."² A procedural schedule allowing discrete adjustments through August 1, 2025, will provide for a complete factual record for the Commission to determine that the Northeast Territory Phase 2 project was completed and placed into service prior to rates going into effect, and thus known and measurable.

7. Furthermore, excluding the Northeast Territory Phase 2 project distorts the test year by creating an artificial line to exclude a known investment that will be placed in service before rates go into effect. This exclusion undermines the purpose of a test year since the purpose of using a test year is to attempt to set rates so that the rates are representative of the period during which rates will be in effect. If the costs are not known before rates take effect, then it is reasonable for the Commission to exclude the cost. However, in this case, the Commission prematurely made a decision without examining the facts and disallowing discrete adjustments after December 31, 2024. Therefore, allowing the test year to be distorted by disallowing any evidence to support

0344 (stating "the parties may make specific (discreet) adjustments . . ." (emphasis added), Order at 4); WR-2017-0285 (stating "Parties may present further adjustments for the Commission's consideration . . ." (emphasis added), Order at 3); WR-2022-0303 (stating "Additionally, the parties may submit discrete adjustments for the time period through May 31, 2023." (emphasis added), Order at 4.

² Staff Response to Ameren Missouri's Motion to Establish a Test Year at 2.

known and measurable costs from the Northeast Territory Phase 2 project when it is expected to be completed prior to final rates going into effect.

III. MOTION FOR RECONSIDERATION

8. The Company presented direct testimony detailing the need for reliability improvements in the northeast territory because the northeast gas system is experiencing rapid customer growth and is currently operating near maximum capacity and the load modeling shows that the system is at risk for operational issues to provide adequate service to customers on a peak day during the winter of 2024-2025 without additional system capacity investment. *See* Harrison Direct Testimony at 12-13. Specifically, during low temperatures in the winter of 2017-2018, multiple neighborhoods lost gas service due to the limited capacity of the system. *Id.* Although Ameren Missouri Gas Operations was able to perform distribution system upgrades and pressure control station upgrades along with Ameren Missouri Gas Supply acquiring additional capacity from pipelines to incrementally improve system performance and capacity to provide adequate service during peak winter loads during the subsequent winter heating seasons, the Wentzville area has an average annual customer growth of 2.97% over the last 5 years and the current system is projected to lose the ability to support the area's growth by winter of 2025. *Id.* at 13.

9. Ms. Harrison provides testimony detailing the three-phase upgrade needed to address the reliability in the area. Ms. Harrison testified that the Northeast Territory Gas System Reliability Upgrade project is a 3-phase project to install approximately 33 miles of 16-inch steel direct buried pipeline paralleling an existing 8-inch Company transmission pipeline from a connection point to Panhandle Eastern Pipeline in Curryville, Missouri to a point on Ameren's distribution system near Troy, Missouri. *See* Harrison Direct Testimony at 12. Ms. Harrison explains the project will be constructed in three phases with each phase providing additional

incremental capacity to meet customer demand and to ensure adequate service during peak winter loads. *Id.* The project includes installation of a take station in Curryville, Missouri to connect to the interstate supply source along with installation of odorization equipment, cathodic protection system devices, monitoring equipment and valving stations. Phase 1 and Phase 2 will tie into the existing 8-inch transmission line. *Id.* Phase 3 will additionally include installation of pressure regulating equipment to tie into the high-pressure distribution system at a connection point near Troy, Missouri and includes downgrading of the parallel 1960s era, 8-inch steel transmission line to a lower operating pressure. *Id.*

10. As outlined in the direct testimony of Ms. Harrison, the Company continues to spend significant amounts on infrastructure replacements and improvements. In order to provide the Company an opportunity to earn a fair and reasonable return on its total investment, it is necessary for the cost of service to reflect, as closely as possible, the level of the Company's investment at the time new rates will become effective.

11. As noted above, the decision on the appropriate test period and adjustments to be used when establishing rates is a factual determination. *State ex rel. GTE North, Inc. v. Missouri Public Service Com'n*, 835 S.W.2d 356 (Mo. App.W.D.1992). The Missouri Appellate court found that "[t]he accepted way in which to establish future rates is to select a test year upon the basis of which past costs and revenues can be ascertained as a starting point for future projection." *State ex rel. GTE North, Inc. v. Missouri Public Service Com'n*, citing, *State ex rel. Southwestern Bell Tel. Co. v. Public Serv. Comm'n*, 645 S.W.2d 44, 53 (Mo.App.1982). The Missouri Appellate court explained, "[a] test year is a tool used to find the relationship between investment, revenues, and expenses. Certain adjustments are made to the test year figures; "normalization" adjustments used to eliminate non-recurring items of expenses or revenues and "annualization" adjustments

used to reflect the end-of-period level of investment, expenses and revenues. Adjustments are also made for events occurring outside the test year. The criteria used to determine whether a post-year event should be included in the analysis of the test year is whether the proposed adjustment is (1) “known and measurable,” (2) promotes the proper relationship of investment, revenues and expenses, and (3) is representative of the conditions anticipated during the time the rates will be in effect." *State ex rel. GTE North, Inc. v. Missouri Public Service Com'n*, 835 S.W.2d 356, 368, (Mo. App.W.D.1992).

12. Ameren Missouri's requested discrete adjustment meets the criteria used to determine if the inclusion of a post-true-up date event is reasonable. However, the procedural schedule adopted by the Commission does not allow for the Company to verify that the Northeast Territory Phase 2 construction was completed and placed into service. Therefore, the Commission foreclosed the possibility for the Company to factually establish that the project is known and measurable. By denying the opportunity to present the facts related to this adjustment, the Commission is failing to promote the proper relationship of the investment, revenues and expenses and the rates set in this case will not be representative of the plant in service at the time the rates will be in effect.

13. As Ms. Harrison's direct testimony indicates, this is the second of the three projects since the area is experiencing growth and the system is constrained. The Northeast Territory Phase Phases 1 and 2 are indicative of the investments needed to provide safe and reliable service. When rates go into effect, Northeast Territory Phase 2 will be in service but not reflected in rates. Moreover, the Company will continue its investment in reliability as it prepares for the construction of Northeast Territory Phase 3 and these investments are representative of the conditions under future rates.

14. As the Company noted in its Motion, the Commission has held the "use of a true-up audit and hearing in ratemaking as a compromise between the use of a historical test year and the use of a projected or future test year. It involves adjustment of the historical test year figures for known and measurable subsequent or future changes. However, while the "test year as updated" involves all accounts, the true-up is limited to only those accounts necessarily affected by some significant known and measurable change, such as a new labor contract, a new tax rate, or the completion of a new capital asset. Both the "test year as updated" and the true-up are devices employed to reduce regulatory lag, which is "the lapse of time between a change in revenue requirement and the reflection of that change in rates."³

15. In the recent Missouri American Water rate review, the Commission adopted a historical test year with adjustments, allowing the parties to propose such adjustments.⁴ The procedural schedule in that case includes time for true-up data on January 25, 2025, and True-up Direct on March 14, 2025, after the evidentiary hearing. *See In the Matter of Missouri American Water Company's Request for Authority to Implement General Rate Increase for Water and Sewer Service Provided in Missouri Service Areas*, File No. WR-2024-0320, Order Setting Procedural Schedule issued August 7, 2024, pp. 2-3. Yet, the Commission has denied Ameren Missouri the opportunity to include the completion of its new capital asset in this case.

³ *See In the Matter of Laclede Gas Company's Tariff to Revise Natural Gas Rate Schedules*, File No. GR-2002-356 (2002 WL 1379268 (Mo.P.S.C.)), (Order Concerning Test Year and True-up, March 19, 2002), footnotes omitted ("Both the 'test year as updated' and the true-up are devices employed to reduce regulatory lag, which is 'the lapse of time between a change in revenue requirement and the reflection of that change in rates.'") *See also* WR-2020-0344 (stating "the parties may make specific (discreet) adjustments" (emphasis added), Order at 4); WR-2017-0285 (stating "Parties may present further adjustments for the Commission's consideration" (emphasis added), Order at 3); WR-2022-0303 (stating "Additionally, the parties may submit discrete adjustments for the time period through May 31, 2023." (emphasis added), Order at 4.

⁴ *See In the Matter of Missouri American Water Company's Request for Authority to Implement General Rate Increase for Water and Sewer Service Provided in Missouri Service Areas*, File No. WR-2024-0320, SR-2024-0321 (July 31, 2024); *See also* WR-2020-0344; WR-2017-0285; WR-2022-0303.

16. Moreover, the Commission already addressed this issue in previous cases and has allowed for additional time in the procedural schedule to allow all parties to propose adjustments. Indeed, in File No. WR-2024-0320, the Commission allowed the parties to "propose specific (discrete) adjustments to the December 31, 2024, known and measurable revenue requirement calculation"⁵ and allowed additional dates in the procedural schedule.⁶ This allows Missouri American Water to adjust costs one year after the test year, whereas Ameren Missouri is requesting discrete adjustments seven months after the end of the test year.

17. Instead of making a factual determination before Ameren Missouri presented its full case, the Company should be allowed to update costs related to Phase 2 during the course of the proceeding. The Commission has the discretion to allow second true-up for discrete adjustment through August 1, 2025, and a true-up hearing in the first week of August of 2025. Alternatively, the Commission could allow discrete adjustments with no true-up hearing, but allow the parties to present testimony to describing a tracking mechanism to ensure that the level of investment, expense, and revenue that is included in the revenue requirement underlying rates in this case associated with the discrete adjustments varies from the actual levels incurred, that those variations could be deferred to a regulatory asset or liability account and considered for future recovery or return in a future rate case.

18. All of the concerns raised by Staff and OPC are alleviated by allowing **all** the parties to make discrete adjustments for the Northeast Territory Phase 2 project. The direct testimony in this case establishes the northeast gas system's need for investments to support the capacity in the area and is the circumstances supporting the need for the investment are a sufficient trigger to

⁵ See *In the Matter of Missouri American Water Company's Request for Authority to Implement General Rate Increase for Water and Sewer Service Provided in Missouri Service Areas*, File No. WR-2024-0320, Order Regarding Test Year, issued July 31, 2024, at 3.

⁶ *Id.* Order Setting Procedural Schedule, August 7, 2024.

allow for a discrete adjustment in this case.⁷ Accordingly, the Company respectfully requests the Commission allow for a discrete adjustment and either allow for an additional true up, deferred regulatory asset or liability account to be considered in this case. associated true-up dates in the procedural schedule.

WHEREFORE, Ameren Missouri respectfully requests that the Commission reconsider its decision and issue an amendment to the procedural schedule to allow the consideration for discrete adjustments to reflect the completion of the Northeast Territory Phase 2 expected to be completed prior to final rates going into effect.

Respectfully submitted,

**UNION ELECTRIC COMPANY
D/B/A AMEREN MISSOURI**

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⁷ As noted in the Company's Motion, this area provides service in the Wentzville, Missouri area and the area is experiencing customer growth and currently operating near maximum capacity. The load modeling shows that the system is at risk for operational issues to provide adequate service to customers on a peak day during the winter of 2024-2025 without additional system capacity investment. The additional capacity needed to reliably serve this growing area in the future is being added in three discrete phases. The first phase ("Northeast Territory Phase 1"), 11 miles of 16-inch direct buried steel pipeline representing an investment of approximately \$39.6 million, is expected to be placed into service in October 2024, prior to the requested true-up date in this case.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served on the service list via electronic mail (e-mail) on this 12th day of November, 2024.

/s/ Jennifer S. Moore
Jennifer S. Moore