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**MISSOURI PUBLIC SERVICE COMMISSION**

**FINANCIAL AND BUSINESS ANALYSIS DIVISION**

**AUDITING DEPARTMENT**

**REBUTTAL TESTIMONY**

**OF**

**KEITH MAJORS**

**UNION ELECTRIC COMPANY,  
d/b/a Ameren Missouri**

**CASE NO. ER-2024-0319**

*Jefferson City, Missouri  
January 2025*

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KEITH MAJORS  
UNION ELECTRIC COMPANY,  
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1 I will provide a general discussion of regulatory lag and business risk from an accounting  
2 perspective. I will address ratemaking impacts of Plant-In-Service Accounting (“PISA” or  
3 “Plant Accounting” and also commonly referred to as “construction accounting”).<sup>1</sup> Ameren  
4 Missouri elected PISA on September 1, 2018. Ameren Missouri also implemented a Renewable  
5 Energy Standard Rate Adjustment Mechanism (“RESRAM”) rider<sup>2</sup> and first began collecting  
6 eligible costs through the RESRAM rider on February 1, 2020.<sup>3</sup> I will explain that PISA  
7 provides an additional layer of regulatory lag mitigation as well as earnings protection for  
8 Ameren Missouri through special deferral accounting treatment applied to qualifying capital  
9 costs, while RESRAM provides for more immediate rate recovery of costs associated with the  
10 wind and solar generation investment and other renewable costs by adjusting customer rates on  
11 an annual basis in between general rate cases. I will also provide a high-level overview of the  
12 protections that are provided to Ameren Missouri as a result of other currently authorized or  
13 legislatively enacted non-traditional ratemaking procedures. I will provide a summary of the  
14 impacts of PISA that have occurred since the time of Ameren Missouri’s prior electric rate case  
15 and provide details concerning the RESRAM collections that have been authorized by the  
16 Commission as part of Ameren Missouri’s six RESRAM recovery periods. I will summarize  
17 the impact of the protections that Ameren Missouri’s authorized non-traditional ratemaking

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<sup>1</sup> PISA was authorized through by Missouri General Assembly through passage of Senate Bill 564 and modified and extended in 2022 by Senate Bill 745.

<sup>2</sup> The Missouri Renewable Energy Standard (“RES”) was enacted as a voter initiative petition, Proposition C, on November 4, 2008. Mo. Rev. Stat. Section 393.1020.

<sup>3</sup> Ameren Missouri had previously collected renewable energy standard costs entirely as part of a Commission authorized Renewable Energy Standard (“RES”) Accounting Authority Order (“AAO”) that was authorized by the Commission as part of Ameren Missouri Case Nos. ER-2011-0028 and ER-2012-0166. As part of Ameren Missouri Case Nos. ER-2019-0335 and ER-2020-0086, the Commission first authorized Ameren Missouri to collect renewable energy standard eligible costs through the RESRAM rider. RES compliance retail rate impact on average retail customer rates may not exceed more than 1% as detailed in 4 CSR 240-20.100-(5). A limited portion of Ameren Missouri’s renewable energy standard costs continues to be recovered through the previously authorized RES AAO.

1 procedures provided to it during the twelve months ending March 31, 2024 which represents  
2 the test year authorized by the Commission in this rate proceeding.

3 Most recently, Ameren Missouri along with all Missouri utilities will benefit from the  
4 passage of Senate Bill 745 in 2022. This legislation enacted a property tax tracker, amongst  
5 other items. This tracker removes all risk of recovering this substantial expense and drastically  
6 reduces the regulatory lag of property tax recovery.

7 It is Staff's position that the implementation of PISA and RESRAM reduces  
8 Ameren Missouri's overall business risk absent these mechanisms. This fact should be  
9 considered by the Commission in making its determination of a fair and appropriate rate of  
10 return for Ameren Missouri to have a reasonable opportunity to earn as part of establishing new  
11 permanent rates in this rate proceeding. Please refer to the direct and rebuttal testimony of Staff  
12 witness Seoung Joun Won, PhD, of the Commission's Financial Analysis Department for a  
13 complete discussion of Staff's recommendation for a reasonable and appropriate rate of return  
14 for Ameren Missouri's electric operations.

15 **REGULATORY LAG**

16 Q. What is regulatory lag?

17 A. Regulatory lag refers to the time between when a utility experiences a change in  
18 expense or revenue levels and when that change is recognized in the rates that the Commission  
19 allows a utility to charge its customers. Regulatory lag can either increase or decrease a utility's  
20 actual earnings performance compared to its authorized rate of return in between rate cases.  
21 It can be beneficial to customers, as well as to utilities. When a utility's costs increase or its  
22 revenues decrease over a period of time, regulatory lag will tend to reduce the utility's profits,  
23 adverse to the utility, unless other circumstances either completely offset or mitigate the

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1 expense increases or revenue declines. When expenses are decreasing or revenues are  
2 increasing, regulatory lag will reward the utility with increased profits during the interval before  
3 the rates are changed by the Commission to address the decreased costs or increased revenues,  
4 which is a benefit to the utility. Regulatory lag provides the utility with either a penalty or a  
5 reward under traditional cost of service ratemaking where all costs are considered. This  
6 inherent penalty or reward system incentivizes a regulated utility to produce lower cost levels  
7 in between rate cases and to maximize efficiency.

8 Q. Does regulatory lag motivate a utility to act efficiently?

9 A. Yes. Regulators rely on regulatory lag as a vital tool to provide an incentive to  
10 a utility to act efficiently. Excessive use of tracking mechanisms and rate riders reduces the  
11 incentive for the utility to seek out cost reductions because the utility is insulated from changes  
12 in costs and thereby may be able to maintain the utility's profits even when its costs increase.  
13 The more that utilities are insulated from the impacts of increased costs through riders and  
14 surcharges, the more business risk is shifted to utility customers. If a utility experiences an  
15 increase in expense that is being tracked as authorized by the Commission, its financial results  
16 will not be adversely impacted because the impacts are captured on the balance sheet for  
17 deferral treatment with likely certainty of cost recovery. In the meantime, there will not be an  
18 overall reduction in earnings related to the increased cost, because the deferred cost is being  
19 recorded on the balance sheet to capture the increased cost. In this example, the utility has less  
20 incentive to attempt to minimize any such cost increase for the tracked item. If a utility  
21 experiences a reduction in an expense that is being tracked, the financial result will not increase  
22 earnings as a result of the decreased cost level. Once again, the utility will have less incentive  
23 to seek out ways to reduce costs. Utilities may even be dis-incentivized to reduce costs if the

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1 benefit of those lower costs are quickly flowed to customers through special regulatory  
2 mechanisms outside of general rate cases.

3 Furthermore, the authorized use of trackers and rider mechanisms are types of  
4 exceptions to the prohibition of “single-issue ratemaking,” in that they ignore other aspects of  
5 the utilities’ operations that may be experiencing concurrent cost reductions. When too many  
6 trackers and special regulatory cost recovery approaches are allowed problems can result, as  
7 such approaches ignore the fundamental Missouri based ratemaking criteria of providing  
8 consideration and review of “all relevant factors” when setting rates. For example, a utility can  
9 recover certain increased costs through trackers and riders while also over-recovering other  
10 costs established in existing rates determined in the last rate case causing the utility to  
11 potentially earn above its authorized rate of return.

12 Examples of positive regulatory lag producing benefits for Missouri utilities have  
13 occurred with Spire Missouri, Inc., formerly Laclede Gas Company,<sup>4</sup> and Evergy Metro, Inc.,  
14 formerly Kansas City Power & Light Company,<sup>5</sup> when both companies were involved in  
15 mergers.<sup>6</sup> Both of these utilities experienced significant cost savings through labor reductions  
16 and other costs reductions as a result of consolidation. However, much of those savings were  
17 captured, or retained by the utility for a period of time because rates set in prior rate cases did  
18 not reflect the cost savings, also known as “synergies.”

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<sup>4</sup> Laclede Gas Company operating as Spire Missouri, Inc., d/b/a Spire.

<sup>5</sup> Kansas City Power & Light Company now operating as Evergy Metro, Inc., d/b/a Evergy Missouri Metro.

<sup>6</sup> Laclede Gas Company and Laclede Group, Inc. acquired Southern Union Company’s operating division known as Missouri Gas Energy as part of Case No. GM-2013-0254. This Commission ordered a rate reduction for Spire Missouri – East in Case Nos. GR-2017-0215 and for Spire Missouri-West in Case No. GR-2017-0216. Great Plains Energy Incorporated, the holding company for Kansas City Power & Light acquired Westar, Inc. as part of Case No. EM-2017-0226. Kansas City Power & Light experienced a rate decrease in Case No. ER-2018-0145 and Kansas City Power & Light Greater Missouri Operations experienced a rate decrease in Case No. ER-2018-0146.

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1           One clear example of positive regulatory lag producing benefits have occurred with the  
2 reduction in cost of debt that occurred in the prior two decades for all Missouri utilities who  
3 issue debt. Ameren Missouri's cost of issued debt<sup>7</sup> was 6.7% and 6% in 2008 during the 2008  
4 financial crisis. Ameren Missouri's 2012 issuance was at 3.9%, a 2016 issuance was at 3.65%,  
5 and most recently a 2021 issuance was at 2.15%. During each of these issuances, Ameren  
6 Missouri was able to refinance by redemption, repurchases, or maturities of long-term debt at  
7 substantially lower rates. In a declining debt rate environment, Ameren Missouri was able to  
8 retain lower cost of debt savings compared to high cost of debt in customer rates in between  
9 rate cases.

10           Q.     But debt rates have increased dramatically in the last few years, reversing those  
11 retained savings, right?

12           A.     Not entirely. Yes, debt rates have increased dramatically. Ameren Missouri  
13 issued 30-year, \$500 million bonds on March 13, 2023, at a coupon of 5.45%, or slightly over  
14 double the cost from just two and a half years prior.<sup>8</sup> When debt rates were in the decline, Ameren  
15 Missouri retained whatever savings between rate cases. But when rates were increasing, Ameren  
16 Missouri did have PISA starting in 2018. PISA allowed Ameren Missouri to defer some of the  
17 increased capital costs that were formerly not tracked. PISA skews the regulatory lag symmetry by  
18 allowing Ameren Missouri to retain the savings when costs were declining but defer the increased  
19 expenses on the incline.

20           Q.     What are some other examples of positive regulatory lag in the past?

21           A.     Prior to the last two decades of frequent rate filings, Ameren Missouri was able  
22 to maintain its rates without increases from 1986 with the completion of Callaway through 2007

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<sup>7</sup> Obtained from Ameren Corporation 10-K.

<sup>8</sup> Office of the Public Counsel witness David Murray Direct, page 11.



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1 in Case No. ER-2007-0002. In the interim, Staff filed a complaint proposing a \$245 to  
2 \$285 million rate cut.<sup>9</sup> Ameren Missouri was able to not request rate increases during this  
3 time period for several reasons including load and usage growth, the reduction of interest rates  
4 from the double-digit highs of the 1980's, and labor efficiencies from the adoption of computing  
5 and information technology. It is important to note that these savings were retained prior to  
6 any trackers or other regulatory lag mitigation mechanisms to reflect these savings in  
7 customers' rates.

8 Q. Please explain the Missouri ratemaking criteria which requires a consideration  
9 of "all relevant factors."

10 A. The Missouri Supreme Court ruling in State ex rel. United Consumers Council  
11 of Missouri v. Public Service Commission, 585 S.W. 2d 41 (Mo. Banc 1979) ("UCCM")  
12 explained the "all relevant factors" requirement that must be applied in the context of any  
13 general rate case, whether it is a "file and suspend" rate increase request case made by the utility  
14 or an earnings complaint case requested by other parties. In order to meet the UCCM standard,  
15 a complete review and audit of the utility's books and records and an assessment of its  
16 operations that takes into account all revenues, expenses, investment and rate of return must be  
17 addressed when attempting to change rates. Anything less than this type of review that takes  
18 into consideration all relevant factors in the determination of permanent rates might represent  
19 a form of "single-issue" ratemaking that is prohibited barring specific legislation which  
20 permits special rate treatment of certain items. In other words, the inclusion of certain impacts  
21 on the revenue requirement to the exclusion of other impacts, results in a "mismatch" of the  
22 revenue requirement.

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<sup>9</sup> Case No. EC-2002-1.

1 Q. How has the Commission addressed the need to include all relevant factors for  
2 purposes of setting permanent rates through use of a test year?

3 A. The Commission has addressed this matter on a number of occasions.  
4 Specifically, in its Report and Order in a 1983 general rate case involving Kansas City Power &  
5 Light Company (“KCPL”), Case No. ER-83-49, the Commission stated the purpose of using a  
6 test year:

7 The purpose of using a test year is to create or construct a reasonable  
8 expected level of earnings, expenses and investments during the future  
9 period in which the rates, to be determined herein, will be in effect. All  
10 of the aspects of the test year operations may be adjusted upward or  
11 downward to exclude unusual or unreasonable items, or include  
12 unusual items, by amortization or otherwise, in order to arrive at a  
13 proper allowable level of all of the elements of the Company’s  
14 operations. The Commission has generally attempted to establish those  
15 levels at a time as close as possible to the period when the rates in  
16 question will be in effect.<sup>10</sup>

17 This concept of developing a revenue requirement calculation based on a consideration of all  
18 relevant factors has been a long-standing approach practiced by the Commission for purposes  
19 of determining permanent rates in Missouri.

20 **BUSINESS RISK**

21 Q. Generally speaking, what is business risk for a regulated utility?

22 A. Business risk refers to the uncertainty linked to the operating cash flows of the  
23 utility. Business risk is multi-faceted and includes factors affecting revenues, expenses, and  
24 investment costs that could reduce a utility’s profit level. In general, a utility with a certificated  
25 service area that has the ability to request changes in rates to cover changes in costs and to  
26 provide an opportunity to earn a fair return on investment has far less risk than a business or

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<sup>10</sup> *In the Matter of Kansas City Power & Light Company*, 26 Mo.P.S.C. (N.S.) 104, 109 (1983).

1 industry that has no such safeguards.<sup>11</sup> For example, local and regionally owned grocery stores  
2 must compete with other nearby nationwide discount retailers for a customer's purchase of  
3 groceries. Most price sensitive consumers will shop at the store that has the same products but  
4 at lower prices. Likewise, if two nearby gas stations have different pricing for gasoline, most  
5 price sensitive consumers who need to purchase gasoline will opt to fill their vehicles at the  
6 filling station with the lowest price. On the other hand, a regulated utility's customers are  
7 captive customers that have, for the most part, no practical choice other than to accept utility  
8 service and utility rates in the area in which they live or do business.

9 **STAFF RESPONSE TO AMEREN MISSOURI ASSESSMENT OF BUSINESS RISK**  
10 **AND OTHER CONSIDERATIONS**

11 Q. Please summarize Ms. Bulkley's direct testimony section that addresses  
12 business risk and other considerations.

13 A. Ms. Bulkley provides a brief summary of PISA and RESRAM, which are two  
14 of Ameren Missouri's most recently implemented and key regulatory lag mitigation  
15 mechanisms that were previously established by the Missouri Legislature. Generally,  
16 Ms. Bulkley highlights her perceived limitations of the PISA and RESRAM mechanisms  
17 and therefore asserts that Ameren Missouri's business risk has not been reduced by  
18 the implementation of PISA or RESRAM in comparison to a proxy group of 17 electric  
19 utilities that she selected.<sup>12</sup> Ms. Bulkley postulates that regardless of Ameren Missouri's  
20 implementation of PISA and RESRAM does not make Ameren Missouri less risky than

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<sup>11</sup> A few specific examples of safeguards that benefit Ameren Missouri include the opportunity to earn a Commission authorized rate of return on investment, deferral accounting mechanisms such as PISA, riders such as the Fuel and Purchased Power Adjustment Clause ("FAC") and the Missouri Energy Efficiency Investment Act ("MEEIA") rider that provide cost recovery protections.

<sup>12</sup> For a listing of the proxy group, see Ms. Bulkley's direct testimony at page 30.

1 its peers. Instead, Ms. Bulkley argues that despite the implementation of PISA and RESRAM,  
2 Ameren Missouri has greater risk relative to her proxy group in terms of regulatory treatment  
3 because, in part, Ameren Missouri is unable to include Construction Work in Progress  
4 (“CWIP”) in rate base among other alleged shortcomings as some other jurisdictions allow.  
5 Ms. Bulkley’s other concerns about PISA and RESRAM center on her perceived failure of these  
6 mechanisms to entirely eliminate all regulatory lag or to provide immediate cash flow for new  
7 construction related costs. Ms. Bulkley concedes that Ameren Missouri’s fuel adjustment  
8 clause (“FAC”) is a comparable mechanism to what all of the companies in Ameren Missouri’s  
9 proxy group also have; however, this is not enough to offset her overall concerns. Finally,  
10 Ms. Bulkley concludes that since Ameren Missouri is not able to take advantage of other  
11 regulatory lag reducing mechanisms such as CWIP in rate base, forecasted test years, use of  
12 electric revenue decoupling mechanisms that mitigate volumetric risk, or formula rates, that it  
13 appears to her that Ameren Missouri faces somewhat higher regulatory risk than her selected  
14 proxy group.

15 Q. Does Staff agree with Ameren Missouri’s position outlined in Ms. Bulkley’s  
16 direct testimony regarding business risk?

17 A. No. It is Staff’s position that because Ameren Missouri has implemented the  
18 PISA and RESRAM recovery mechanisms, Ameren Missouri’s business risk has certainly been  
19 reduced in absolute terms, and in addition Ameren Missouri’s business risk can reasonably be  
20 assumed to now be lower in relative terms compared to its utility peers compared to prior to  
21 these mechanisms being enacted. Comparatively, between 2008 with the establishment of  
22 Ameren Missouri’s FAC through the present, Ameren Missouri’s business risk should  
23 reasonably be considered to have plummeted.

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1 Q. Please respond to Ms. Bulkley's observation that PISA does not make Ameren  
2 Missouri less risky than its peers.

3 A. I have not assessed other aspects of Ameren Missouri's business risk nor have  
4 I conducted any comparison of Ameren Missouri with any of its peers and therefore would refer  
5 any questions regarding those matters to Staff witness Dr. Won. My testimony will address  
6 Ms. Bulkley's statements only from an accounting perspective. My rebuttal testimony focuses  
7 on my review of PISA and RESRAM. I will also provide high level discussion of various other  
8 trackers and riders that are available to Ameren Missouri.

9 Ameren Missouri's business risk has been reduced because of the implementation of  
10 both PISA and RESRAM. These recovery mechanisms have certainly reduced the impact of  
11 regulatory lag that exists by enabling Ameren Missouri to defer and later recover significant  
12 amounts of investment related costs associated with eligible PISA investment as well as  
13 providing for a more immediate recovery of eligible renewable costs through the  
14 implementation of RESRAM.

15 Q. Should this Commission take this reduced business risk into consideration in the  
16 determination of a reasonable and appropriate rate of return for Ameren Missouri?

17 A. Yes, but not in the form of a reduction in rate of return. Conversely, the  
18 Commission should not increase rate of return on account of the alleged deficiencies in Missouri  
19 ratemaking compared to the regulatory paradigm experienced by the proxy companies. Staff is  
20 not aware of any policy or statutory impediment to the Commission doing so in relation to the  
21 impact of the recent incorporation of the PISA and RESRAM mechanisms into Ameren  
22 Missouri's ratemaking, as well as the establishment of the property tax tracker.

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1 Q. What has been the impact of PISA mechanisms since the time that Ameren  
2 Missouri first implemented PISA?

3 A. As part of Ameren Missouri's prior electric rate case, Case No. ER-2022-0337,  
4 during the period covering October 1, 2021 through December 31, 2022, Ameren Missouri  
5 deferred \$180.9 million of investment related costs associated with eligible PISA investment  
6 along with additional deferred depreciation and carrying costs from the amounts deferred in  
7 Case No. ER-2021-0240.<sup>13</sup> The Commission authorized a \$9.0 million annual recovery of this  
8 deferred balance over a 20-year period beginning with the July 9, 2023, effective date of rates,  
9 with the unamortized balance included in rate base.

10 In the most recent accumulation period,<sup>14</sup> Ameren Missouri completed \$1.89 billion<sup>15</sup>  
11 in total investment of which \$1.80 billion was PISA eligible investment.<sup>16</sup> Consequently, the  
12 vast majority of Ameren Missouri's investment during this time period, approximately 95%,  
13 was eligible for the prescribed 85% recovery of all PISA investment related costs.<sup>17</sup> PISA has  
14 provided a substantial boost to Ameren Missouri's earnings and cash flow that did not  
15 previously exist. As part of rates established in the 2022 Rate Case, Ameren Missouri received  
16 a \$23.0 million annual cash flow benefit<sup>18</sup> just from amounts deferred in the last rate case.

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<sup>13</sup> The additional deferred depreciation and carrying costs from ER-2021-0240 are referred to as the "stub period": the period between the cutoff date in that case of September 30, 2021, and the effective date of rates, February 28, 2021.

<sup>14</sup> Ameren Missouri is now recording the fourth PISA deferral including plant-in-service from January 1, 2023 through December 31, 2024, the true-up cutoff in this case. This deferral also includes the "stub period" of the depreciation and carrying costs from ER-2022-0337: the period between the cutoff date in that case of December 31, 2022 and the effective date of rates, July 9, 2023.

<sup>15</sup> Through June 2024.

<sup>16</sup> Source: Ameren Missouri response to Staff Data Request No. 327 ER-2019-0337 and Ameren Missouri workpapers.

<sup>17</sup> Ibid.

<sup>18</sup> This calculation was based upon Staff's midpoint rate of return and capital structure as recommended in Case No. ER-2022-0337. \$9.0 million amortization plus \$14.0 million rate of return.

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1 In the current rate case, the most recent accumulation period resulted in a deferral  
2 of \$154.1 million deferral, and a \$19.6 million annual cash flow benefit.<sup>19</sup> The chart below  
3 summarizes the eligible PISA investment ending June 30, 2024, as well as the revenue  
4 requirement impact that Ameren Missouri continues to collect annually in current Commission  
5 authorized rates.

PISA Layer A (2019 Rate Case)	\$51.4 million
PISA Layer B (2021 Rate Case)	\$199.0 million
PISA Layer C (2022 Rate Case)	\$180.9 million
PISA Layer D (2024 Rate Case) <sup>20</sup>	\$154.1 million <sup>21</sup>
Total Cumulative Deferral	\$585.4 million

PISA Layer A Amortization	\$2.6 million
PISA Layer B Amortization	\$9.9 million
PISA Layer C Amortization	\$9.0 million
PISA Layer D Amortization <sup>22</sup>	\$7.7 million <sup>23</sup>
Total Annual Amortization	\$29.2 million

PISA Layer A Balance	\$40.5 million
PISA Layer B Balance	\$175.7 million
PISA Layer C Balance	\$167.4 million
PISA Layer D Balance	\$154.1 million
Pre-tax Rate of Return (Staff)	7.734%
Total Rate of Return at June 30, 2024	\$41.5 million
Total Revenue Requirement Impact	\$70.8 million

<sup>19</sup> This calculation was based upon Staff's midpoint rate of return and capital structure as recommended in Case No. ER-2024-0319. \$4.0 million amortization plus \$6.2 million rate of return.

<sup>20</sup> Balance as of June 2024. To be updated in Staff's true-up case.

<sup>21</sup> Corrected from Staff's Direct Filing.

<sup>22</sup> Amortization as of June 2024. To be updated in Staff's true-up case.

<sup>23</sup> Corrected from Staff's Direct Filing.

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1 Once new rates are established by the Commission in this rate proceeding, the cash flow benefit  
2 pertaining to Ameren Missouri's PISA deferrals will be \$70.8 million annually that would not  
3 have existed absent election of the PISA mechanism.

4 The key takeaway from these charts and the preceding discussion is that the PISA is  
5 clearly a substantial earnings and cash flow benefit for Ameren Missouri.

6 Q. What has been the impact of the RESRAM rider, since the time that Ameren  
7 Missouri first elected RESRAM recovery?

8 A. The Commission has authorized six RESRAM tariffs for Ameren Missouri.  
9 The table below summarizes these tariff filings:

RESRAM Case #	Accumulation Period	Revenue Requirement	Collection Period
ER-2020-0086	Jan-July 2019	\$14.1 million	Feb 2020 – Jan 2021
ER-2021-0090	Aug 2019-July 2020	\$5.1 million	Feb 2021 – Jan 2022
ER-2022-0091	Aug 2020-July 2021	\$(31.8 million) (credit)	Feb 2022 – Jan 2023
ER-2023-0117	Aug 2021-July 2022	\$10.5 million	Feb 2023 – Jan 2024
ER-2024-0112	Aug 2022-July 2023	\$62.3 million	Feb 2024 – Jan 2025
ER-2025-0119	Aug 2023-July 2024	\$95.0 million	Feb 2025 – Jan 2026

10  
11 Q. What are Ameren Missouri's plans for new capital investment?

12 A. On February 18, 2021 Ameren Missouri submitted a five-year capital plan in  
13 Case No. EO-2019-0044 and has updated these plans periodically. This plan indicates that  
14 significant investment levels of capital investments will continue through 2028 of which, the  
15 vast majority of the investment related costs will be eligible for PISA recovery. Additional  
16 amounts will be eligible for RESRAM recovery as well. The table below details the actual and  
17 projected investments:



1

**Capital Investment**

<u>Year</u>	<u>\$ of Investment</u>
2019 actual	\$1.044 billion
2020 actual	\$1.722 billion
2021 actual	\$2.017 billion
2022 actual	\$1.589 billion
2023 actual	\$1.716 billion
2024 forecast	\$2.658 billion
2025 forecast	\$2.128 billion
2026 forecast	\$2.822 billion
2027 forecast	\$2.508 billion
2028 forecast	\$2.297 billion
Total expected 2024 - 2028	\$12.415 billion

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Q. Please respond to Ms. Bulkley's concern that PISA and RESRAM do not eliminate regulatory lag.

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A. While neither the PISA nor RESRAM mechanism entirely eliminates regulatory lag, they do significantly reduce Ameren Missouri's regulatory lag compared to the time period prior to the enactment of PISA and RESRAM. The PISA mechanism protects earnings of the Company by deferring the impacts of added plant additions without capturing any corresponding reduction in costs associated with adding new plant absent such deferral treatment. In fact, PISA treatment allows a deferral of cost impacts that the qualified plant would have had on earnings absent this deferral mechanism. Earnings are immediately protected, because PISA eligible amounts are deferred on the balance sheet as a regulatory asset. Ameren Missouri will also recover these deferred costs over the life of the

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1 PISA qualified plant. Thus, a significant, immediate and long-term benefit to Ameren Missouri  
2 shareholders now exists.

3 The RESRAM mechanism provides more immediate cash flow and profits for Ameren  
4 Missouri between rate cases and mitigates the regulatory lag impact for costs incurred to meet  
5 the Missouri Renewable Energy Standard (“RES”). Ameren Missouri has purchased significant  
6 amounts of capital investment in wind generation and is expecting to invest significant amounts  
7 in solar energy generation in the future. RESRAM recovery provides cash flow and supports  
8 earnings in between rate cases for significant planned investments for qualified renewables in  
9 years to come.

10 Ameren Missouri now has some flexibility in how it chooses to recover renewable  
11 capital investment related costs. Ameren Missouri can choose to recover renewable capital  
12 investment related costs as well as renewable operating expenses simply by flowing the costs  
13 entirely through the RESRAM. Alternatively, Ameren Missouri can recover 85% of the  
14 renewable capital investment related costs through PISA and then additionally recover the  
15 remaining 15% of these renewable investment related costs through the RESRAM. This  
16 provides Ameren Missouri with the ability to recover these costs in multiple ways based upon  
17 timing of the completion of such projects as well as other circumstances.

18 Q. Did Ameren Missouri seek permission to implement PISA deferral accounting  
19 prior to the SB 564 legislation?

20 A. Yes, and the Commission rejected the request. In the 2012 Ameren Missouri  
21 rate case, Case No. ER-2012-0166, Ameren Missouri requested permission to implement  
22 PISA accounting. Ultimately, the Commission denied Ameren Missouri’s request as explained  
23 in the *Report and Order* that was issued in that rate case. Please refer to Schedule KM-r1 for a

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1 copy of the Commission’s ruling on Ameren Missouri’s PISA request in that rate case. The  
2 Commission recognized that PISA, now codified into law, distorts the matching principle and  
3 ignores all relevant factors. The Commission noted then that “PISA would unfairly increase  
4 the company’s revenue requirement at the expense of ratepayers.”

5 Q. On page 54 of her testimony, Ms. Bulkley notes that “The Company’s capital  
6 investment plan includes significant investment in natural gas-fired generation that would not  
7 be recoverable through this mechanism.” How do you respond?

8 A. Although the new natural gas-fired generation is not currently included in the  
9 PISA mechanism, Staff and the Commission have generally been supportive of reducing  
10 regulatory lag inherent in construction of large generating assets or large construction projects.  
11 The obvious example is the accounting treatment afforded the forthcoming Castle Bluff  
12 Facility. This \$900 million simple cycle combustion turbine generator facility will receive a  
13 version of construction accounting pursuant to the *Unanimous Stipulation and Agreement* filed  
14 in File No. EA-2024-0237 and approved by the Commission.

15 For Castle Bluff, the construction accounting is modified as follows: 1) WACC<sup>24</sup> is  
16 used versus the AFUDC<sup>25</sup> rate, 2) the ROE in the AFUDC rate is reduced by 250 basis points  
17 (2.5%), and 3) the deferrals are not included in rate base in future rate cases and the amortization  
18 is over 4 years as opposed to the life of the asset.

19 Q. How does construction accounting for Castle Bluff compare with prior examples  
20 of the utilization of construction accounting?

---

<sup>24</sup> Weighted Average Cost of Capital.

<sup>25</sup> Allowance for Funds Used During Construction.

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1           A.     In prior examples, the last known AFUDC rate prior to the in-service is used  
2 as the accrual rate. Generally speaking, the AFUDC rate will be lower than WACC due  
3 to the inclusion of short-term debt and other miscellaneous short-term sources of capital.  
4 The AFUDC draws on short- and long-term debt first before the cost of equity based on the  
5 balance of CWIP. The deferrals have generally received rate base treatment over the remaining  
6 life of the assets in question. The only other example to my knowledge of a reduced ROE in  
7 calculation of the deferral is the construction of Iatan 2.<sup>26</sup>

8           Q.     What completed major construction projects have received construction  
9 accounting?

10          A.     I have attached a schedule of the construction projects of which I am aware that  
11 have received construction accounting as Schedule KM-r2. Comparing the \$900 million  
12 estimate for Castle Bluff as noted in Case No. EA-2024-0237 to the net rate base in the current  
13 case of \$13.7 billion results in an addition to rate base of 6.58% and will be a smaller portion  
14 of rate base at the time of the in-service date of Castle Bluff in 2027. Compared to the other  
15 projects on the attached schedule, Castle Bluff is the smallest addition to rate base that received  
16 construction accounting. This is an important point refuting Ms. Bulkley's complaints that  
17 PISA does not include new gas generation, and that additional regulatory mechanisms such as  
18 CWIP in rate base are needed. In this case, Staff and the Commission supported a form of  
19 construction accounting for a relatively small addition to rate base, with appropriate offsets that  
20 recognize the reduced regulatory lag.

21          Q.     On page 57 of her rebuttal testimony, Ms. Bulkley notes "...while PISA does  
22 allow deferral of depreciation and return on 85 percent of the eligible investment, the utility's

---

<sup>26</sup> As established in Case No. EO-2005-0329.

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1 net income is negatively impacted between rate cases because the equity portion of that return  
2 cannot be included in the utility's reported earnings.” How do you respond?

3 A. This is simply a timing difference not a true loss of income. Ameren Missouri  
4 is compensated for the delay in recognizing these earnings by inclusion of the unamortized  
5 balances in rate base. Ameren Missouri is essentially earning a return on a return over the  
6 20-year time amortization period which is recognized as earnings following implementation of  
7 rates. For a portion of the PISA, Ameren Missouri is earning a return on a return on a return.<sup>27</sup>  
8 It is also important to note that the underlying investments upon which PISA deferrals are  
9 recorded are long-lived assets. Ameren Missouri will recognize the equity portion of the PISA  
10 deferrals ratably similar to capital recovery through depreciation.<sup>28</sup>

11 Q. Please respond to Ms. Bulkley’s complaint, found on page 57, lines 14  
12 through 19, where she states that Ameren Missouri does not have the ability to include CWIP  
13 in rates through its PISA mechanism.

14 A. I have not performed any assessment of CWIP ratemaking allowed in other  
15 states. In November 1976, Missouri passed a referendum prohibiting electric utilities from  
16 including CWIP in customers’ current rates while under construction. This law is commonly  
17 referred to as “Proposition 1” and, in effect, does not allow electric utilities to receive cost  
18 recovery of CWIP until such time that the plant or capital investment is fully operational and

---

<sup>27</sup> Return layer 1) AFUDC accrued on PISA plant investment up to the in-service date, return layer 2) PISA deferrals from in-service date to effective date of new rates, on the AFUDC accrued, and return layer 3) ROR for 20 years on PISA deferrals on the original AFUDC accrued.

<sup>28</sup> Ameren Corporation 2023 Annual Report, page 67: “The regulatory asset for accumulated PISA deferrals also earns a return at the applicable WACC until added to rate base prospectively. Ameren Missouri recognizes an offset to “Interest Charges” on its consolidated statement of income for its carrying cost of debt relating to each return allowed under the PISA, with the difference between the applicable WACC and its carrying cost of debt recognized in revenues when recovery of PISA deferrals is reflected in customer rates.”

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1 used for service.<sup>29</sup> The intention of this law was to protect customers from being forced to pay  
2 for capital investment that is not capable of providing utility service and therefore would not  
3 provide an actual benefit to customers.

4 Proposition 1 has been in effect for over 45 years. The Commission should reject any  
5 request for an adder or increase in ROE to reduce Ameren Missouri's perceived risk.

6 Q. What is CWIP and how is it accounted for by electric utilities?

7 A. In general, CWIP represents the costs of construction associated with projects  
8 that are not yet in-service and therefore not capable of providing electric utility service to  
9 customers during construction. The Federal Energy Regulatory Commission ("FERC")  
10 Uniform System of Accounts prescribes the following accounting treatment in Account 107 for  
11 these costs:

12 A. This account shall include the total of the balances of work orders for  
13 electric plant in process of construction.

14  
15 B. Work orders shall be cleared from this account as soon as practicable  
16 after completion of the job. Further, if a project, such as a hydroelectric  
17 project, a steam station or a transmission line, is designed to consist of two  
18 or more units or circuits which may be placed in service at different dates,  
19 any expenditures which are common to and which will be used in the  
20 operation of the project as a whole shall be included in electric plant in  
21 service upon the completion and the readiness for service of the first unit.  
22 Any expenditures which are identified exclusively with units of property  
23 not yet in service shall be included in this account.

24  
25 C. Expenditures on research, development, and demonstration projects for  
26 construction of utility facilities are to be included in a separate subdivision  
27 in this account. Records must be maintained to show separately each project  
28 along with complete detail of the nature and purpose of the research,  
29 development, and demonstration project together with the related costs.

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<sup>29</sup> Section 393.135, RSMo (2016) Charges based on nonoperational property of electrical corporation prohibited. Any charge made or demanded by an electrical corporation for service, or in connection therewith, which is based on the costs of construction in progress upon any existing or new facility of the electrical corporation, or any other cost associated with owning, operating, maintaining, or financing any property before it is fully operational and used for service, is unjust and unreasonable, and is prohibited.

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1 Q. Do utilities ever recover CWIP?

2 A. Yes. While construction costs while booked to the CWIP account are not  
3 included in permanent rates, in Missouri, as determined by the Commission in any particular  
4 rate case, the accumulated CWIP balances are included in rate base when the construction  
5 is completed and the plant is placed into service. Once plant is completed and customers start  
6 to benefit, the related costs are included in the rate structure of the utility through a rate  
7 request. While the costs of the newly completed plant are “deferred” during the time of  
8 construction, utilities are made whole through the accrual of an allowance for funds used  
9 during construction (“AFUDC”). AFUDC represents a deferred “return” mechanism  
10 recognizing the investors’ cost of money during the duration of the construction project. The  
11 plant construction costs and the related AFUDC are included in the final plant costs that are  
12 ultimately included in rate base as part of a general rate case once it is fully operational and  
13 used for service.

14 Q. How do utilities recover these deferred construction costs?

15 A. When construction is completed, the construction costs accounted for in  
16 CWIP are “transferred” to plant in service. This newly completed plant is included in rate base  
17 used to determine the appropriate utility rates charged to customers. While in rate base, the  
18 completed plant is allowed a current return recovery, known as a “return on” plant. In addition,  
19 the completed plant is allowed to be depreciated, which allows a “return of” the investment to  
20 its investors and shareholders from the utility customers who benefit from the use of this plant.  
21 Thus, utilities may recover through rates a “return on” and “return of” plant throughout the  
22 investment’s useful life of utility service to customers.

1 Q. Would Staff be supportive of a utility’s attempt in Missouri to recover CWIP in  
2 customer rates before plant is placed in service?

3 A. No. Beyond the fact that legal counsel advises the recovery of CWIP in current  
4 electric utility rates is not permitted, as determined by Missouri voters in 1976, allowing CWIP  
5 recovery in rates would produce unfair results for customers because:

6 1. It is not appropriate to charge customers for investment costs for  
7 an item such as an electric generating facility that is not capable of  
8 providing utility service during the time the plant is being  
9 constructed—in essence, customers should not have to pay for plant  
10 that is not capable of providing utility service. This construction  
11 project that is not capable of providing utility service to customers  
12 is not needed until completion. Only when customers start  
13 benefiting from use of the completed plant should rate recovery  
14 start;

15  
16 2. Including CWIP in current rates prior to completion increases the  
17 likelihood that a utility would construct unnecessary investment—  
18 including CWIP in existing rate structure provides utilities  
19 incentives to complete plant that is no longer needed;

20  
21 3. CWIP in current rates can create intergenerational inequities<sup>30</sup>  
22 and;

23  
24 4. Including CWIP in current rates shifts risk from the utility to its  
25 customers by requiring customers to pay for plant that may never be  
26 completed. Utilities are required to plan and build sufficient  
27 facilities to meet existing customer needs, receiving a financial  
28 return for accepting this risk. By shifting risk of construction  
29 projects to utility customers, there is not typically a corresponding  
30 reduction in the utility’s expected and requested rates of return.  
31 Thus, utility customers will likely pay more in rates for having to  
32 accept this additional risk.<sup>31</sup>

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<sup>30</sup> Intergenerational inequity in that if CWIP were collected in current rates, the utility would get the benefit of collecting the construction costs for investment that is not yet in-service today while at the same time the customers would be receiving no benefits until a later time, if ever.

<sup>31</sup> For example, South Carolina Electric & Gas Company “SCANA” (now owned by Dominion Energy) ratepayers paid approximately \$2.0 billion in rates for a nuclear power plant located near Jenkinsville, South Carolina that will never be completed. The failure of the V.C. Summer nuclear project eventually led to the bankruptcy of Westinghouse in 2017.



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1 None of these consequences are desirable outcomes for Missouri ratepayers.

2 Q. Hypothetically, if CWIP in rate base were allowed in Missouri utility rates,  
3 would Ameren Missouri be in a financially better position?

4 A. Not necessarily. For purposes of this example, I make the following  
5 assumptions:

6 1) the amount of CWIP included in rate base is based on some average  
7 (13-month, multi-year) or period ending.

8 2) CWIP not included in rate base in any given case would earn AFUDC.

9 3) PISA was not utilized for the given time frame.

10 For this example, I assume PISA was not recorded for the fourth PISA deferral Layer D for the  
11 time period January 1, 2023 through Staff's cutoff in this case of June 30, 2024. In this  
12 hypothetical, the law was changed to allow CWIP in base. Using these assumptions, I can  
13 approximate the amount of ROR on CWIP that would be included in cost of service compared  
14 to the amounts Ameren Missouri is allowed to defer through PISA.

15

13 Month Average CWIP balance <sup>32</sup>	\$798.8 million
Staff Mid-Point ROR, Case No. ER-2022-0337	7.764%
Annual ROR Cash flow impact	\$62.0 million
Cumulative Cash flow impact, January 1, 2023 through June 30, 2024	\$93.0 million
AFUDC Accrued on CWIP not in rate base	\$31.2 million

16

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<sup>32</sup> Source: Staff Data Request 483, Case No. ER-2022.337 and Staff Data Request 472, Case No. ER-2024-0319. This is the average for the calendar months of 2022 leading up to the true-up cutoff at December 31, 2022. A 13-month average is used to capture the entire period's activity.

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1 For this example, during the 18-month period from January 2023 through June 2024, the cash  
2 flow on CWIP in rate base was \$93.0 million and the AFUDC accrued on CWIP not in rate  
3 base was \$31.2 million. This AFUDC would be included in plant in service.

4 Currently using PISA without CWIP in rate base, the cash flow is lower, but the deferred  
5 investment upon which Ameren Missouri would earn a return on and of in the future is much  
6 higher at \$187.2 million:

7

PISA Layer D Deferrals <sup>33</sup>	\$80.2 million
AFUDC Accrued on Plant investment, January 1, 2023 through June 30, 2024	\$107.0 million

8

9 In comparison, CWIP in rate base would provide an immediate cash flow benefit at the  
10 cost of a far-reduced amount of AFUDC that could be included in plant in service. The benefit  
11 comparison would of course vary based on how the AFUDC rate was determined (level and  
12 rate of short-term debt) and the ROR used in the comparison, among other variables.

13 Q. Ms. Bulkley states at page 63 of her direct testimony that Missouri utility rates  
14 are determined using a “historic test year with limited number of known and measurable  
15 changes through a true-up period” and states that other jurisdictions use forecasted test years,  
16 and that the Missouri approach contributes to regulatory lag. Do you think this is a good reason  
17 to enact forecasted test years?

18 A. No. The Commission has used historic test years to determine utility rates for  
19 decades. Historic test years represent twelve months of “known and measurable” data that  
20 reflects actual, audited financial information. The Commission has upheld this known and

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<sup>33</sup> Deferral of depreciation and carrying cost on plant in service, does not include stub period interest from ER-2022-0337 deferrals. The stub period is not included as it is related to prior period investment.

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1 measurable approach that actual, audited results represents the most accurate form of  
2 ratemaking. In Missouri, the Staff routinely performs annualization, normalization and  
3 proposed disallowance adjustments to correct abnormalities that may exist in test year results.  
4 In addition, the Commission uses a variety of methods and procedures to ensure the very latest  
5 revenue and cost information is used to determine utility rates including updating the test year  
6 and completing a true-up audit. Throughout the process of adjusting the test year, performing  
7 an update and true-up, the appropriate relationship between revenues, expenses, and rate base  
8 must be maintained, often referred to as the “matching principle.” Essentially, this means the  
9 revenue requirement must be developed by ensuring that all known and measurable changes  
10 influencing revenues, expenses and investment are reflected at a specific point in time. The test  
11 year, any update period and true-up audit cutoff is consistently determined early in the process  
12 by this Commission through a Procedural Order in every case. During the true-up process  
13 various annualization and normalization adjustments are made to the test year results, all with  
14 the intent to reflect the best and most recent information available to the Commission to  
15 determine rates as close to the time as possible when those rates will be in effect. In fact, the  
16 result of this lengthy and time-consuming auditing process through the end of the true-up period  
17 is to reduce the impacts of regulatory lag. Also, a variety of riders and mechanisms are  
18 implemented by the Commission to set rates which significantly reduces regulatory lag.  
19 True-ups are frequently used to address changes to revenues and costs to minimize the impact  
20 of regulatory lag. Once the cost of service analysis is completed updating the test year results,  
21 the majority of the revenue, expense and investment cost impacts are examined and updated to  
22 current levels. All of this provides the Commission with the ability to set rates based on an

1 adjusted historic test year that provides an appropriate forward-looking focus as it has done for  
2 many years.

3 Q. Ms. Bulkley noted there are “limited” known and measurable changes. How do  
4 you respond to this criticism?

5 A. Utilities are the gatekeepers of their financial records and are the first party to  
6 develop their own revenue requirements. Staff and other parties rely first on the utility itself to  
7 identify the changes in costs and revenues. If the number of adjustments is “limited” as is  
8 alleged, then either the test year is representative of ongoing revenues or expenses, or the utility  
9 is deficient in identifying the cost drivers in the rate case process.

10 **CURRENT AMEREN MISSOURI REGULATORY MECHANISMS**

11 Q. Do customers pay in rates for costs that utilities request special accounting  
12 treatment?

13 A. Yes. Frequently, utilities such as Ameren Missouri request from the  
14 Commission what is referred to as deferral cost recovery. Often circumstances warrant costs  
15 that ordinarily would be treated currently as expenses, to be deferred. The Commission may  
16 authorize Ameren Missouri to defer certain costs with an opportunity to request rate recovery  
17 in the future.

18 Q. What kinds of costs does the Commission typically allow deferral treatment?

19 A. There are situations that may occur during the normal operations of the utility  
20 where events happen causing costs to rise above normal levels, and above those in current rates.  
21 An ice storm is an example, where the utility is required to immediately repair damage to the  
22 transmission and distribution infrastructure, restoring power as soon as is capable. Reasonable  
23 and prudent costs to repair damage from storms, damage to equipment and facilities to restore

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1 service are allowed this special accounting treatment, with opportunity for cost recovery in  
2 future rate requests.

3 Q. Does Ameren Missouri have deferred costs that the Commission has authorized  
4 the use of deferred cost recovery?

5 A. Yes. Ameren Missouri has many such deferrals currently in existing rates.  
6 Ameren Missouri has regulatory mechanisms and special accounting treatment that the  
7 Commission currently authorizes to mitigate the impacts of regulatory lag.

8 Ameren Missouri is currently using a number of differing approaches that reduce  
9 business risk with regard to cost recovery for a variety of different categories of revenue,  
10 expense and investment related costs. Some of these approaches address changes in revenue,  
11 expense and investment related costs that occur in between rate cases through a deferral that is  
12 recorded on the balance sheet. Subsequently, the Commission has authorized the recovery from  
13 customers of the deferrals through an amortization, sometimes with rate base treatment, as part  
14 of establishing permanent rates in a general rate case. Ameren Missouri is allowed to pass on  
15 changes in fuel related costs that occur in between rate cases as part of the FAC. Ameren  
16 Missouri may also use riders to simply pass certain costs on to the customers outside of a rate  
17 case under established rules approved by the Commission. The following is a listing of the  
18 approaches that Ameren Missouri has employed to mitigate regulatory lag impacts and to  
19 provide more certainty with regard to cost recovery and profitability that are in addition to the  
20 previously discussed use of PISA and RESRAM:

- 1 1. Fuel Adjustment Clause (“FAC”) Rider;
- 2 2. Missouri Energy Efficiency Investment Act (“MEEIA”) Rider;
- 3 3. Pension and Other Post Retirement Employee Benefits (“OPEBS”) Tracker
- 4 - Regulatory Asset and Liability Deferral and Amortization;
- 5 4. Various Trackers - Regulatory Asset and Liability Deferrals and
- 6 Amortizations;
- 7 5. Timing of rate cases to address changes in payroll and property tax expense;

8 Q. Does Ms. Bulkley consider Missouri’s policies regarding deferral of costs and  
9 its benefits to Ameren Missouri in her evaluation of Missouri cost recovery policies?

10 A. No. For those not specifically defined by statute, these deferrals are authorized  
11 on a case by case basis.

12 **ELECTRIC UTILITY ENVIRONMENTAL COST RECOVERY MECHANISM**

13 Q. Are there any other riders available to Ameren Missouri that it has not  
14 yet implemented?

15 A. Yes. Ameren Missouri has not requested approval for an Electric Utility  
16 Environmental Cost Recovery Mechanism (“ECRM”) as part of this rate case. An ECRM  
17 would allow recovery of an electric utility’s prudently incurred costs directly related to  
18 compliance with federal, state or local environmental laws, rules or regulations. An ECRM  
19 would need to first be approved by the Commission in a general rate case and, if approved,  
20 recovery would be permitted for net increases or net decreases in actual prudently incurred  
21 environmental costs compared to environmental cost levels that were included in permanent  
22 rates. While the ECRM mechanism has been available to electric utilities operating in Missouri  
23 since 2009, Ameren Missouri has never implemented the use of this recovery mechanism up to  
24 this point.

1 **CONCLUSION**

2 Q. Please summarize Staff's recommendation with regard to business risk.

3 A. Ameren Missouri enjoys various and considerable protections against the  
4 impacts of regulatory lag, and the number of those protections have increased over time.  
5 It is important to note that the Commission establishes rates with the intended goal of  
6 providing Ameren Missouri with a reasonable opportunity, not a guarantee, to earn a fair rate  
7 of return. The recent implementation of PISA, RESRAM, and the property tax tracker have  
8 provided additional opportunities to Ameren Missouri to reduce business risk and mitigate  
9 regulatory lag.

10 Q. Does this conclude your rebuttal testimony?

11 A. Yes it does.

**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 Revenues for Electric Service                )            Case No. ER-2024-0319

**AFFIDAVIT OF KEITH MAJORS**

STATE OF MISSOURI    )  
                                  )  
COUNTY OF COLE     )            ss.

**COMES NOW KEITH MAJORS** and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing *Rebuttal Testimony of Keith Majors*; and that the same is true and correct according to his best knowledge and belief.

Further the Affiant sayeth not.

  
\_\_\_\_\_  
KEITH MAJORS

**JURAT**

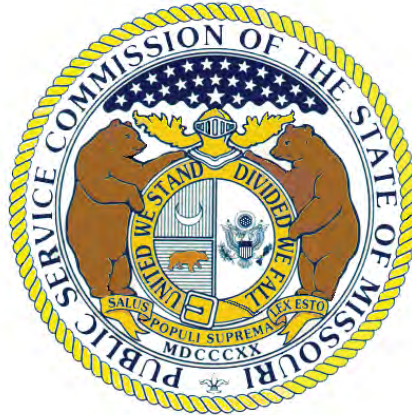
Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 14<sup>th</sup> day of January 2025.

D. SUZIE MANKIN  
Notary Public - Notary Seal  
State of Missouri  
Commissioned for Cole County  
My Commission Expires: April 04, 2025  
Commission Number: 12412070

  
\_\_\_\_\_  
Notary Public



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



In the Matter of Union Electric Company, d/b/a )  
Ameren Missouri's Tariff to Increase Its Annual )  
Revenues for Electric Service )

**File No. ER-2012-0166**  
Tariff No. YE-2012-0370

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**REPORT AND ORDER**

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**Issue Date: December 12, 2012**

**Effective Date: December 22, 2012**

CWIP-related ADIT that reduces the utility's actual out-of-pocket investment in the new asset to only \$620,000 after taxes.

However, AFUDC will be accrued at 10 percent on the gross CWIP cost for the full year the asset is in CWIP, resulting in Plant-in-Service added to rate base of \$1.1 million (\$1 million plus \$100,000 of AFUDC) with no recognition given to the CWIP-related ADIT in accruing AFUDC. Clearly, when the AFUDC rate is applied to the entire \$1 million of gross investment, with no reduction for CWIP-related AFUDC, the utility is fully compensated for its gross investment in this asset. In this example, the \$100,000 of allowed AFUDC on a gross \$1 million investment, when the utility's after-tax net investment is only \$620,000, would significantly overstate AFUDC and future rate base.<sup>74</sup>

In other words, failure to recognize the CWIP-related ADIT balance in the company's rate base will overstate the companies AFUDC costs and future rate base, essentially allowing the company to earn AFUDC and a return on capital supplied by ratepayers.

#### **Conclusions of Law:**

A. Missouri's Anti-CWIP statute states:

Any charge made or demanded by an electrical corporation for service, or in connection therewith, which is based on the costs of construction in progress upon any existing or new facility of the electrical corporation, or any other cost associated with owning, operating, maintaining, or financing any property before it is fully operational and used for service, is unjust and unreasonable, and is prohibited.<sup>75</sup>

#### **Decision:**

As fully explained in the findings of fact, Ameren Missouri must include CWIP-related ADIT balances as an offset to rate base to avoid overstating AFUDC and future rate base, to the detriment of both current and future ratepayers.

**4. Plant in Service Accounting (PISA): Should the Commission grant Ameren Missouri accounting authority to accrue a return on invested capital and to defer depreciation for non-revenue-producing plant additions in a regulatory asset during the period between the date when those plant additions begin serving**

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<sup>74</sup> Brosch Direct, Ex. 500, Pages 37-38, Lines 13-25, 1-7.

<sup>75</sup> Section 393.135, RSMo 2000.

## customers until the date they are reflected in rate base in a later rate case?

### Findings of Fact:

1. This issue is closely tied to Ameren Missouri's frequently repeated concerns about its inability to earn its allowed rate of return due to what it believes to be excessive regulatory lag.<sup>76</sup> The regulatory lag that plant in service accounting (PISA) aims to address results from the regulatory treatment of newly constructed plant. While the plant is being constructed, the utility is able to accrue AFUDC to compensate it for the money that is being invested in the plant. That money cannot be added directly into rate base because of Missouri's anti-CWIP statute. The AFUDC is accumulated during the construction process and is moved into rate base when the plant goes into service. The utility recovers that AFUDC cost over the remaining service life of the plant.<sup>77</sup>

2. AFUDC stops when the plant goes into service. At that point, the cost of the plant is eligible to be included in rate base and the plant begins depreciating. However, the utility cannot begin to recover the cost of the plant in rates until that cost is added to rate base in a subsequent rate case. There will always be some gap after AFUDC stops and before the cost of the plant can be put into rate base.<sup>78</sup> It is that gap that Ameren Missouri seeks to bridge through its PISA proposal.

3. PISA is a new concept developed by Ameren Missouri's Vice President, Business Planning and Controller, Lynn Barnes.<sup>79</sup> Since it is a new concept, it has not

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<sup>76</sup> Barnes Rebuttal, Ex. 12, Page 18, Lines 6-9.

<sup>77</sup> Barnes Rebuttal, Ex. 12, Page 20, Lines 4-11.

<sup>78</sup> Barnes Rebuttal, Ex. 12, Page 20, Lines 12-17.

<sup>79</sup> Transcript, Page 582, Lines 2-4.

been adopted by any other state utility commission.<sup>80</sup> The PISA proposal would only apply to the net change in plant in service that is unrelated to new business. In other words, it would not apply to new service connections that would generate new revenue for the company.<sup>81</sup>

4. In effect, PISA would allow Ameren Missouri to continue to accrue AFUDC on eligible plant additions until that new plant can be added to the company's rate base in a future rate case. In that, it is very similar to the well-known regulatory concept of construction accounting.

5. Construction accounting is frequently used to help a utility recover the cost of single large construction projects, such as Ameren Missouri's recent Sioux Scrubber project. Through PISA, Ameren Missouri would extend that principle of cost recovery to include the many small construction projects that do not produce new revenue for the company, but collectively tie up a large amount of the company's capital outlays.<sup>82</sup>

6. There are several problems with Ameren Missouri's PISA proposal. First, over time, PISA could place a very heavy financial burden on ratepayers. Adoption of PISA would have no impact on the rates established for this case because the proposal is only to allow Ameren Missouri to begin to defer certain costs for possible recovery in a future rate case. However, if the Commission allows Ameren Missouri to recover the deferred costs in its next rate case there would be an impact on rates at that time.<sup>83</sup>

7. If PISA had been implemented in the last rate case, \$637 million in plant

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<sup>80</sup> Transcript, Page 580, Lines 17-21.

<sup>81</sup> Barnes Direct, Ex. 11, Page 18, Lines 4-12.

<sup>82</sup> Barnes Rebuttal, Ex. 12, Page 21, Lines 3-13.

<sup>83</sup> Transcript, Page 607, Lines 17-23.

additions would have qualified for PISA treatment during the period between the true-up date in the company's last rate case and the true-up date in this case. Lost depreciation and return that would be included in rate base under the PISA proposal amounted to \$37.6 million during that period. If PISA had been in effect for this rate case, the company's annual revenue requirement would have been increased by \$6.2 million.<sup>84</sup>

8. Although PISA would have an initial impact of around \$6.2 million per year in the next rate case, those costs would not end after one year. The additional revenue Ameren Missouri would recover through PISA would continue to accumulate throughout the 30-40 year life of the assets as they depreciate.<sup>85</sup> Over forty years, that \$6.2 million per year would total more than \$240 million.<sup>86</sup> Of course, the PISA would not necessarily end after a single rate case. If the Commission renewed PISA for additional years, additional recoveries would tend to pancake on top of each other and the numbers could quickly become very large.

9. Second, because PISA is a new concept that has never been tested, there are no clear standards for what would be treated as a non-revenue producing asset that should be excluded from the PISA.<sup>87</sup> Instead, the Commission's Staff would have to sort through all the company's data to determine whether the company has properly classified those assets.<sup>88</sup> The burden on Staff to review company information in rate cases is already substantial.

10. Third, PISA would violate the test-year principle in that it would routinely draw

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<sup>84</sup> Barnes Surrebuttal, Ex. 13, Pages 5-6, Lines 21-23, 1-5.

<sup>85</sup> Transcript, Page 669-670, Lines 7-25, 1-16.

<sup>86</sup> Transcript, Page 675, Lines 2-4.

<sup>87</sup> Brosch Direct, Ex. 500, Pages 21-22, Lines 17-23, 1-4.

<sup>88</sup> Transcript, Pages 743-744.

non-test year expenses into the test year for the next rate case. The test year principle is important because it is designed to match revenues and expenses at a given time to try to determine an appropriate revenue requirement for the company.<sup>89</sup> By drawing in certain out-of-test-year expenses to be matched against test year revenues, while not examining all factors that might demonstrate a corresponding increase in revenue or decrease in expenses, PISA would unfairly increase the company's revenue requirement at the expense of ratepayers.<sup>90</sup>

11. The Commission does on occasion authorize accounting authority orders and tracking mechanisms that allow a utility to defer certain extraordinary costs for possible recovery in a future rate case. Several such mechanisms are authorized in this case. In addition, the Commission has authorized the use of construction accounting to help utilities deal with the financial burden of large construction projects. However, those mechanisms are premised on the existence of some extraordinary circumstance. Ameren Missouri concedes the expenses it would recover through PISA are not extraordinary, are not volatile or unpredictable, and are not outside the company's control.<sup>91</sup>

12. Fourth, Ameren Missouri contends PISA is needed to provide the company with a greater incentive to invest limited capital in needed infrastructure repairs and replacement.<sup>92</sup> However, while Ameren Missouri's witness testified that there are some additional discretionary capital projects the company might like to undertake if it were allowed PISA, it did not demonstrate that there is any great un-met need for additional

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<sup>89</sup> Robertson Direct, Ex. 406, Page 6, Lines 3-6.

<sup>90</sup> Brosch Direct, Ex. 500, Pages 19-20, Lines 15-22, 1-12.

<sup>91</sup> Transcript, Page 656-657, Lines 18-23, 1-20.

<sup>92</sup> Barnes Direct, Ex. 11, Page 19, Lines 6-16.

capital investment to ensure delivery of safe and adequate service.<sup>93</sup> Indeed, there is reason to be concerned that PISA would encourage Ameren Missouri to undertake capital projects that, while helpful, are not necessary to provide safe and adequate service, thereby unnecessarily driving up rates.

13. Finally, PISA seems to be a solution in search of a problem. Ameren Missouri has had difficulty earning its allowed ROE in the past several years. The company likes to blame that failure on systemic problems in Missouri's regulatory scheme that lead to excessive regulatory lag.<sup>94</sup> However, many businesses and individuals have been unable to earn as much as they might like in the economic conditions prevailing in recent years.

14. Furthermore, utility ratemaking is forward looking, concerned with current and anticipated financial conditions. What the company has earned in the past does not necessarily tell us what it will be able to earn in this future.<sup>95</sup> In the past several rate cases, the Commission has implemented several trackers and other regulatory measures that should enhance Ameren Missouri's ability to earn its allowed rate of return. Those previous measures should be allowed an opportunity to work before further measures are undertaken.

15. Indeed, a surveillance report that Ameren Missouri supplied to Staff showed that for the 12 months ended June 30, 2012, within the true-up period for this case, Ameren Missouri's actual earned return on equity was 10.53 percent, which is above the 10.2 percent return on equity allowed in its last rate case.<sup>96</sup> Ameren Missouri attempted to

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<sup>93</sup> Transcript, Pages 699-700.

<sup>94</sup> Baxter Direct, Page 14, Lines 2-4.

<sup>95</sup> Brosch Direct, Ex. 500, Page 9, Lines 5-9.

<sup>96</sup> Exhibit 237.

dismiss that 10.53 percent return as being attributable to warmer than normal weather and to other anomalies, but there it is. Under the circumstances, it is not clear that there is a systemic problem that needs to be solved with PISA.

**Conclusions of Law:**

There are no additional conclusions of law for this issue.

**Decision:**

After considering Ameren Missouri's PISA proposal, the Commission finds that PISA would be bad public policy and should not be authorized.

**5. Rate Case Expense: What is the appropriate amount to include in Ameren Missouri's revenue requirement for rate case expense?**

**Findings of Fact:**

1. Rate case expense is the amount Ameren Missouri has spent to present and defend its rate increase request before the Commission. Ameren Missouri incurs such costs to procure expert testimony and to pay its lawyers to present that testimony.

2. Ameren Missouri estimates it will spend \$1,903,000 for rate case expense in this case.<sup>97</sup> That number is necessarily an estimate because most rate case expenses are incurred in conjunction with the hearing, which, of course, occurs after the true-up date of July 31, 2012. Indeed, the actual final cost figures will not be known until after this report and order is issued.<sup>98</sup>

3. Ameren Missouri proposes to calculate the amount of rate case expense to be included in rates by averaging the actual rate case expenses from the company's two prior rate cases with its estimate of expenses for this case. Rate case expense for File No.

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<sup>97</sup> Weiss Direct, Ex. 5, Page 28, Lines 7-8.

<sup>98</sup> Transcript, Pages 862-863, Lines 2-25, 1-12.



<b>Comparative Construction Analysis</b>									
<b>Prepared by Keith Majors, Case No. ER-2024-0319</b>									
<b>Company</b>	<b>Construction Accounting Case No.</b>	<b>Construction Project</b>	<b>Total Company Share Constructed Plant in Service</b>	<b>Source</b>	<b>Missouri Jurisdictional Constructed Plant in Service</b>	<b>Source</b>	<b>Missouri Jurisdictional Net Rate Base Excluding Construction Project</b>	<b>Source</b>	<b>Construction Project % of Net Rate Base</b>
Union Electric	EO-85-17 & ER-85-160	Callaway	2,978,248,000	Commission Reports, Volume 27, p.189	2,442,300,000	Commission Reports, Volume 27, p.189	4,055,088,934	Commission Reports, Volume 27, p. 270	60.23%
Ameren Missouri	ER-2010-0036	Sioux Environmental	574,098,132	Gary Weiss True-Up Direct, ER-2011-0028	574,098,132	Gary Weiss True-Up Direct, ER-2011-0028	6,135,560,194	Gary Weiss True-Up Direct, ER-2011-0028	9.36%
KCPL	EO-85-185 & ER-85-128	Wolf Creek	1,366,496,000	Commission Reports, Volume 28, p. 279	924,812,000	Commission Reports, Volume 28, p. 279	1,126,914,700	Commission Reports, Volume 28, p. 415	82.07%
KCPL	ER-2009-0089	Iatan 1 & Common Environmental	496,841,343	DR 193, Case No. ER-2012-0174	267,648,432	DR 193, Case No. ER-2012-0174	1,269,458,884	Staff Direct Accounting Schedules, ER-2009-0089	21.08%
KCPL GMO - L&P	ER-2009-0090	Iatan 1 & Common Environmental	94,684,505	DR 141, Case No. ER-2012-0175	94,684,505	DR 141, Case No. ER-2012-0175	190,475,404	Staff Direct Accounting Schedules, ER-2009-0090	49.71%
KCPL	EO-2005-0329	Iatan 2 & Common	982,476,091	DR 193, Case No. ER-2012-0174	525,673,764	DR 193, Case No. ER-2012-0174	1,524,610,061	Staff Revised True-Up Accounting Schedules, ER-2010-0355	34.48%
KCPL GMO - MPS	EU-2011-0034	Iatan 2 & Common	206,289,001	DR 141, Case No. ER-2012-0175	205,257,556	DR 141, Case No. ER-2012-0175	1,108,183,457	Staff Revised True-Up Accounting Schedules, ER-2010-0356	18.52%
KCPL GMO - L&P	EU-2011-0034	Iatan 2 & Common	109,333,171	DR 141, Case No. ER-2012-0175	109,333,171	DR 141, Case No. ER-2012-0175	300,554,763	Staff Revised True-Up Accounting Schedules, ER-2010-0356	36.38%
Empire	EO-2005-0263	Iatan 1 & Common Environmental	62,209,942	Mertens Direct, ER-2011-0004	51,835,750	Mertens Direct, ER-2011-0004	717,938,940	Staff Direct Accounting Schedules, ER-2010-0130	7.22%
Empire	EO-2005-0263	Iatan 2 & Common	269,059,140	Mertens Direct, ER-2011-0004	224,190,569	Mertens Direct, ER-2011-0004	641,697,501	Staff Direct Accounting Schedules, ER-2011-0004	34.94%
Empire	EO-2010-0262	Plum Point	105,097,322	Mertens Direct, ER-2011-0004	87,571,187	Mertens Direct, ER-2011-0004	641,697,501	Staff Direct Accounting Schedules, ER-2011-0004	13.65%
Ameren Missouri	EA-2024-0237	Castle Bluff	900,000,000	Projected Plant, Wills Direct, EA-2024-0237	900,000,000	Projected Plant, Wills Direct, EA-2024-0237	13,668,534,043	Staff Direct Accounting Schedules, ER-2024-0319	6.58%