BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of Union Electric Company d/b/a Ameren Missouri for Approval of Efficient Electrification Program	)))	**File No. ET-2018-0132**

STAFF'S REPLY BRIEF

Respectfully submitted,

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The purpose of a *Reply Brief* is to respond to the arguments made by parties' opponents. Rather than replying to every argument other parties make in their initial briefs, having presented and argued its positions in its initial brief, Staff is limiting its replies to where it views further explanation will most aid the Commission in its deliberations.

Throughout its *Initial Post Hearing Brief* ("Ameren Missouri's Brief", or "Company's Brief"), Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri") urges the Commission not to look too deeply at any component or subpart of its program, that "the point of the program… is to develop a holistic charging network so materially more EVs will purchased"[1] or to develop a holistic program where more electrical equipment is purchased. What Ameren Missouri neglects to explain, in the Company's Brief, its pre-filed testimony, or at hearing, is how programs that fail to pass scrutiny when individually analyzed and cannot, <u>even accepting Ameren Missouri's own figures</u>,[2] on a micro level produce the number of electric vehicles required to offset program costs, will result in a cost-effective, successful program when viewing the program on a macro and holistic level. Ameren Missouri latched on a comment made by

[1] *Initial Post Hearing Brief of Ameren Missouri*, p. 22.
[2] Tr. Vol. IV, p. 475, l. 14 through p. 476, l. 1.

Commissioner Kenney comparing these programs to *Field of Dreams*,[3] urging the Commission to let Ameren Missouri build it, because they will come. In reality what Ameren Missouri has put forth is, 'what we might build could accommodate 10,000 or 2,000, located in a corn field or mountain, and it might have a baseball diamond or goal posts, but we definitely will get 8,890 baseball players to cover our costs.' Because the details in the tariff and cost benefit analyses for the programs are so disconnected to the resulting number of EVs and measures predicted, Staff has no reason to expect benefits will occur under the programs as currently designed.[4] In fact, the most informative tariff sheet, which is for the Charge Ahead –Business Solutions ("Business Solutions") program, is still so ill-defined that Ameren Missouri requests four (4) modifications to fill in necessary details and add structure to the program.[5] Ameren Missouri admits the programs are risky, that "there are no guarantees respecting exactly how the program economics will play out",[6] yet balks at any attempt to share or mitigate that risk via better designed programs or the Office of the Public Counsel's (OPC) performance incentive. Instead, Ameren Missouri tries to shift its burden on to Staff and OPC,[7] against the time honored legal finding that the party

[3] *Initial Post Hearing Brief of Ameren Missouri*, p. 9.
[4] Tr. Vol. IV, p. 474, l. 2-9. Among the changes Ameren Missouri states would be necessary is a provision that the program incentives would be made available to entities that are not actually customers of Ameren Missouri.
[5] *Initial Post Hearing Brief of Ameren Missouri*, p. 9.
[6] *Id.* at p. 2.
[7] *Id.* at p. 6.

seeking approval, or affirmation of an issue, bears the burden of proof.[8] This burden never shifts.[9]

Staff shares OPC's skepticism when it comes to speculative valued added services that are not necessary for safe and adequate service. In the absence of either a better defined set of programs developed in coordination with other stakeholders and supported by robust analysis, or a performance incentive that protects ratepayers from Ameren Missouri's speculative gamble, Staff recommends the Commission reject the application as filed. For the Charge Ahead-Electric Vehicle programs ("EV programs"), Staff recommends the Commission order the parties to collaborate on developing a make ready model and appropriate tariff sheets with the following considerations:

1. Publicly available means parking areas available to the general public with the indicated number of minimum parking spaces available, without permit, for example, parking areas at Parks, Commuter Parking Lots, Public Transportation parking areas, Public Parking Lots and Garages, Shopping Centers, and Retail facilities.
2. Employee parking and residential parking may qualify if parking spots are not assigned, and the indicated minimum parking spaces available requirements are met.
3. Where indicated, the Applicant shall ensure that sufficient measures are in place to reasonably cause EVs to vacate the charging location to enable other EVs to access the charging location.
4. EV charging under this program shall be separately metered from any other customer uses on the premises.[10]

[8] "The burden of proof in its strict sense [is] . . . that of establishing the affirmative of the ultimate issue, which never shifts throughout the trial but remains upon the party asserting it[.]" ***Been v. Jolly***, 247 S.W.2d 840, 854 (Mo. 1952).
[9] *Id.*
[10] Ex. 100, *Staff Report on the Estimated Costs and Benefits of a Make Ready Tariff for Separately Metered EV Charging*, p. 1-2.

The ultimate policy goal of such a process would be to create well designed tariff sheets that balance improved public accessibility of EV charging, minimization of free ridership, and potential benefits to other ratepayers through both direct-enabled and accretive marginal revenues.[11] This includes consideration of port sharing and areas suited to port sharing to incent more than one EV, as well as locational considerations to ensure distribution costs are low.[12]

Charge Ahead-Electric Vehicles

As Staff has repeatedly pointed out in testimony, at hearing, and in its *Initial Brief*, Ameren Missouri has not provided thorough, robust analysis to support that the EV programs as filed are designed to ensure non-participants actually receive benefits justifying the cost of the programs. While Staff has numerous issues regarding the programs, Staff believes the record would benefit from focusing on Staff's contention that the analysis as performed has critical errors in terms of capacity assumptions, and that, even if the Commission disregarded Staff's analysis, Ameren Missouri's own figures and statements show the programs are not cost-effective.

Staff witness Sarah Lange provided detailed discussion and analysis in testimony to show that a minor change in assumptions can have a large impact on the results of cost-benefit analysis.[13] Ameren Missouri tries to brush aside Ms. Lange's work, stating

[11] *See Id.* at p. 5 & 7.
[12] Tr. Vol. IV, p. 458, l. 2-14.
[13] *See* Ex. 101, *Lange Rebuttal*, and Ex. 105C, *Lange Surrebuttal*.

her “dizzying number of scenarios and array of resulting number”[14] are “truly just “what ifs.””[15] First, the fact is that Ms. Lange performed her analysis as a sensitivity analysis to show what happens when a variable is modified slightly,[16] and in most instances, modifying the inputs to better reflect the realities of what happens when any charger higher than 6.6 kW is placed on a portion of the system that is not classified as underutilized. So the intent of Staff’s analysis was not to say what is certain to happen, but what could happen depending on how the programs incent or discourage various charging speeds, times, and locations.[17] Second, in the absence of a well-designed program to encourage the adoption of certain scenarios and behaviors,[18] Ameren Missouri witness Mr. Wills’ analysis is no more “realistic or even likely”[19] than Staff’s. The difference between the two is Staff witness Ms. Lange, as Ameren Missouri notes, will readily admit she is not claiming her scenario is likely, as opposed to Mr. Wills’ waffling between complete confidence that his scenario is correct and the EV program budget will be covered[20] to outrage that OPC would want “a guarantee of future economic outcomes” based on his scenario.[21] Staff is also not gambling millions of dollars in ratepayer funds by asking the Commission to bet on Staff’s predictions for the future.

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[14] *Initial Post Hearing Brief of Ameren Missouri*, p. 21. Notably, Ameren Missouri intersperses claims regarding the amount of scenarios Staff produced and the deep dive Staff took with claims that Staff did not provide any evidence. It is hard to imagine how both statements can co-exist.
[15] *Id.*
[16] Tr. Vol. IV, p. 474, l. 21-24.
[17] Tr. Vol. IV, p. 450, l. 3-7.
[18] Tr. Vol. IV, p. 455, l. 4-5.
[19] *Initial Post Hearing Brief of Ameren Missouri*, p. 16.
[20] Ex. 7, *Wills Surrebuttal*, p. 39, l. 1-3.
[21] *Id.* at p. 8, l. 3-4.

The "dizzying number of scenarios" Ms. Lange modeled exemplified the variability of cost estimates depending on what assumptions are made and what the design of the program allows. Ameren Missouri has areas that have little to no capacity, especially for charging stations above 6.6 kW.[22] Energy costs are higher on a summer afternoon.[23] Without considering the individual locations and their characteristics, blank cost assumptions may lead to underestimation of the costs of the program. A true analysis considers when the transformers need to be improved, or if additional circuits or feeders would be required to accurately estimate system impacts and costs.[24] Without a reasonable analysis, programs should be designed to discourage charger installations that would cause system impacts on the distribution level.[25] Neither is present in this case. Ameren Missouri tries to refute Ms. Lange's analysis by stating the typical home charger is 6.6 kW,[26] but this disregards the fact that the chargers it is incentivizing are not home chargers, they are chargers for primarily non-residential use. The Multi-Family program incentivizes up to 20 kW, and the other programs allow for "fast chargers", which begin at 50 kW, with no cap on speed or system demand.[27] Ms. Lange, based on her analysis notes that the system will notice the impact of charging at the higher speeds, especially at system peak, and that the only chargers the RIM analysis reviewed were 6.6 kW.[28] The RIM results provided by Ameren Missouri have no relationship between the cost of the programs they propose

[22] Ex. 111C, *Data Request #0018*.
[23] Tr. Vol. IV, p. 471, l. 9-10.
[24] Tr. Vol. IV, p. 471, l. 7-18.
[25] Tr. Vol. IV, p. 471, l. 20-25.
[26] Tr. Vol. II, p. 277, l. 8-11.
[27] *See* EFIS Item 4, *Proposed EV Tariff Sheets.*
[28] Tr. Vol. IV, p. 473, l. 7-9 and 17-19.

and the benefits it claims.[29] Staff repeatedly asked for sub-program results.[30] Staff repeatedly asked for the connection, or any explanation between how the positive margins Ameren Missouri calculated correlates to the budget and how the budget correlates to the number of EVs produced, but nothing was provided in testimony, work papers, or in any other material to rationalize the sub-programs.[31] As Ms. Lange explains, this is where Ameren Missouri's case breaks down.[32] Costs that should be examined include potential upgrades to local distribution centers and substations.[33] To know what those costs are, the speed of the charging station, the system capacity at the proposed location of the charging station, and current and projected system utilization.[34] Depending on those factors, the costs can vary greatly, which is exactly what Ms. Lange's analysis shows.[35]

Ameren Missouri also grossly mischaracterizes Staff's analysis. Ameren Missouri states "Fourth, when reasonable assumptions of when and where charging will occur and the rate of the charging are employed, all the modeling results (even Staff's) show that there indeed will be a positive margin from each EV (i.e., the cost will be less than that $300)." "Staff produced analyses showing an average, positive margin of between approximately $107 and $195 per EV."[36] In reality, the range provided in that Staff

[29] Tr. Vol. IV, p. 440, l.14-16.
[30] Tr. Vol. IV, p. 439, l. 10-12.
[31] Tr. Vol. IV, p. 439, l. 11-23.
[32] Tr. Vol. IV, p. 440, l. 21-22.
[33] Tr. Vol. IV, p. 440, l. 23-p. 441, l. 4.
[34] Tr. Vol. IV, p. 441, l. 5-13.
[35] Tr. Vol. IV, p. 441, l. 10-13.
[36] *Initial Post Hearing Brief of Ameren Missouri*, p. 25.

testimony Ameren Missouri cited is $66.50 - $107.12 [37] Notably, Ameren does not cite to the *Staff Report On The Estimated Costs And Benefits Of A Make Ready Tariff For Separately-Metered EV Charging* at page 4, which indicated negative margins result from 36 of the studied scenarios, or Ms. Lange's surrebuttal testimony, which, accounting for the tariff's ability to charge at rates over 3 times higher than those studied by Mr. Wills, revised the $66.50 - $107.12 per EV range to negative $149.29 to positive $166.11 per EV.[38] Importantly, these analyses are related to the annual revenues in excess of system costs estimated to be produced from an average EV, and is moot if Ameren Missouri's programs do not cause EVs to charge in Ameren Missouri's territory, and does not attempt to analyze the margin of any contribution to fixed costs net of new program costs.

Another glaring issue with Ameren Missouri's analysis is the assumptions regarding when EVs will charge. Ameren Missouri touts a benefit of the programs is efficient use of the system when demand on the system is low and there is ample capacity.[39] However, that benefit is reliant on Ameren Missouri incentivizing off peak charging. The tariff sheets do not do so. Without proper signals to encourage people to charge off peak, there is no incentive for EV owners not to immediately plug their vehicles in for charging when they arrive home after work, which for many EV owners, coincides with Ameren Missouri's peak.[40] That exacerbates system peak and puts

[37] The $195 figure cited by Ameren Missouri does appear on that page of testimony, but it is the increase in cost Staff estimates to be caused by each EV, not a net revenue as stated by Ameren Missouri. Ex. 101, *Lange Rebuttal* p. 6.
[38] Ex. 105C, *Lange Surrebuttal*, p.4.
[39] *Initial Post Hearing Brief of Ameren Missouri*, p. 30.
[40] Tr. Vol. IV, p. 449, l. 10-24.

demands on local distribution systems that may require significant upgrades.[41] This goes double for a 20 kW multifamily charging station, or an over 50 kW DCFC a driver utilizes in the afternoon before leaving work, or on the drive home.[42] A time of use (TOU) rate would give the proper signal to incentivize off peak charging, but Ameren Missouri, unlike the IPL study it modeled its charging load shape from, does not mandate TOU participation.[43] Without incentivizing off peak charging, Mr. Wills' assumption about load shapes and charging, and thus the resulting costs, are unreliable.[44] Finally, without TOU, many of the environmental claims touted by supporters of the program dissipate, as charging at peak results in the use of intensive energy sources that are fossil fuel based.[45]

Even if we ignore the analyses performed by Staff, and accepted Ameren Missouri's figures at face value, the programs as proposed will not be cost-effective.[46] In fact, even with two vehicles enabled by each workplace and multifamily charging port (which seems unlikely as Ameren Missouri has strongly contested the notion of port sharing[47]) 41 EVs would have to be enabled by each public area charging port.[48] Now, Ameren Missouri asks the Commission to ignore this analysis, much as it asks the Commission to ignore Ms. Lange's. Ameren Missouri urges the Commission not look too deeply, that there's "no need to walk into the weeds to individually justify the economics of each incentivized charging station or to try to count how many EVs will

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[41] Tr. Vol. IV, p. 444, l. 1-8.
[42] *Id.*
[43] *See* Ex. 115, *IPL Electric Vehicle Program Report Year 3, 2013 Report*.
[44] Tr. Vol. IV, p. 464, l. 1-6.
[45] Tr. Vol. IV, p. 381, l. 11-17.
[46] Tr. Vol. IV, p. 475, l. 14 to p. 476, l. 1.
[47] Tr. Vol. IV, p. 475, l. 19-24.
[48] Tr. Vol. IV, p. 476, l. 3-12.

be adopted because of any one charging station or type of charging station."[49] Ameren Missouri's weak Jedi mind trick at trying to convince the Commission these are not the analyses you're looking for springs from Ameren Missouri's inability to explain how individual programs that are not cost-effective become cost-effective when added together. Of course the number of EVs adopted matters, because only by the program incentivizing 8,890 EVs[50] does the program produce benefits for anyone other than owners of EVs. Unless the program budget and the projected number of EVs are not connected - which would render any cost-effectiveness results meaningless - claims that the number of EVs adopted is irrelevant to the economics of the programs should be rejected outright. Because the projected number of EVs matters, along with the budget, Staff struggles to find a situation in which the $5.5 million budget for Workplace and Multifamily is spent and only results in one car per port[51] could ever pass a RIM test.[52]

Repeatedly Ameren Missouri tries to bypass Staff's criticisms by claiming these programs are necessary to jumpstart the EV market, so criticisms regarding the cost-effectiveness of the programs are not relevant to the ultimate goal.[53] Ameren Missouri points to range anxiety and concerns about too few public charging stations in a consumer's area, and criticizes Staff and OPC for ignoring this "common sense" problem.[54] Unfortunately, Ameren Missouri also ignored this "common sense" concern when designing its programs. Multifamily and Workplace charging are not publicly

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[49] *Initial Post Hearing Brief of Ameren Missouri*, p. 23.
[50] Ex. 107, *Wills Surrebuttal*, p. 38 – 39.
[51] Ex. 7, Wills Surrebuttal p. 31, l. 20-23.
[52] Tr. Vol. IV, p. 442, l. 10-16.
[53] *Initial Post Hearing Brief of Ameren Missouri*, p. 14.
[54] *Id.* at p. 13.

accessible charging stations, and therefore would not alleviate the public's concerns about the availability of charging stations. The Public Charging Program addresses this concern, but is a mere $1.1 million of the entire budget, and that budget can be funneled to other subprograms at Ameren Missouri's sole discretion. The Corridor Charging Program is publicly available, but as addressed in Staff's testimony and *Initial Brief*, is duplicative of other statewide efforts that do not require ratepayer funds. Ameren Missouri critiques Staff and OPC for relying upon the VW trust to provide funds, but viewing Ameren Missouri's program with skepticism.[55] As the neutral party charged with balancing the interests of ratepayers and utilities and other parties, and the state agency charged with protecting the public, both Staff and OPC must take a critical view of speculative value added services, where Ameren Missouri is protected with total cost recovery, but ratepayers may or may not receive the "bang for their buck."[56] If the VW trust fails to produce a statewide EV network, ratepayers are not harmed. If Ameren Missouri fails to produce benefits for all customers from the investment in the Corridor Program, ratepayers are out $4.4 million as well as the ratepayer funds expended on attendant distribution system upgrades. Ameren Missouri then tries to justify the Corridor Charging Program as an opportunity for Ameren Missouri "to provide the leadership among the EV Collaborative utilities"[57], neglecting to mention that Ameren Missouri's leadership role in a collaborative Ameren Missouri voluntarily joined

[55] *Id.* at 10, ftn. 23.
[56] Tr. Vol. IV, p. 324, l. 19-24.
[57] *Id*. at 15.

comes at the cost of Ameren Missouri ratepayers shouldering 73% of the total share of funding for a statewide program with six other utility participants.[58]

Ameren Missouri tries to hand wave criticism of the programs by stating, "The program investments for these two time-limited (five years) programs are modest, totaling a maximum of just $18 million over five years—an average of $3.6 million per year, or approximately one-tenth of one percent of Ameren Missouri's annual revenue requirement. That is the very most that these programs could cost customers, even based on the unrealistic assumption that they will provide no benefits at all to customers."[59] While Ameren has proposed program costs totaling $18 million, that $18 million <u>does not</u> include line extension and distribution upgrade costs caused by these programs.[60] Under both the existing and proposed line extension tariffs, the customer requesting service bears responsibility for a portion of these costs, and Ameren's residual ratepayers bear responsibility for the remainder of the investment cost. That residual ratepayer share is not included in the $18 million, and those costs could be significant, particularly if equipment to enable charging at speeds above 6.6 kW is installed. Existing Ameren Missouri work orders indicate that distribution costs associated with high speed charging range in the tens of thousands of

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[58] *See* EFIS Item 4, *Proposed EV Tariff Sheets,* Sheet 165.3.
[59] *Initial Post Hearing Brief of Ameren Missouri*, p. 1-2.
[60] "JUDGE DIPPELL: And so what's the benefit of […] for Ameren of that approach?
MS. TATRO: For line extension or for --
JUDGE DIPPELL: For this line extension.
MS. TATRO: The line extension tariff just says what amount the customers pays or what amount -- you know, what the cost of it is above what the revenues -- the marginal revenues that this customer's going to bring in. But then the EV charger tariff's going to sit on top of that and it's going to cover those costs." Tr. Vol. II, p. 23, l. 1-11.

dollars.[61] ChargePoint's witness Mr. Ellis delved into the variability of distribution infrastructure requirement in response to questioning from Chairman Silvey.

> Available capacity for level 2 potentially could be quicker, but really it's site specific. So each site would need to be assessed and then determine what requirements are needed to install the infrastructure and interconnect it, electrify it and then make it operational. So it really just depends on the site characteristics.[62]
>
> Now, again, each site is different, each corridor is different. A landowner, a property owner, you know, a restaurant with amenities is an ideal location. A grocery store actually that's close to a corridor could be a good location that we've seen because it has existing electrical capacity and wouldn't require additional costs associated with adding that capacity. It just improves the existing load factor of that. So different sites are, you know, putting charging infrastructure in and it really just depends on what's there.[63]

So unless careful program parameters are included to limit excessive distribution system expansion (or to include that expansion in the program budget) the total expense for captive customers will likely exceed the $18 million dollars analyzed in Ameren Missouri's application.

The Charge Ahead EV programs as filed should be rejected. The Commission should order the parties to collaborate on developing a make ready model and appropriate tariff sheets, in line with the Commission voted and approved tariff in Case Nos. ER-2018-0145 and ER-2018-0146.[64] This Make Ready model, in line with previous Commission discussions and decisions, would include distribution lines,

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[61] See Ex. 105C *Lange Surrebuttal*, Schedule SLKL-s1.
[62] Tr. Vol IV, p. 310, l. 6-12.
[63] Tr. Vol. IV, p. 312, l. 5-15.
[64] ***In the Matter of the Application of Kansas City Power & Light Company for Authority to Implement a General Rate Increase for Electric Service***, File No. ER-2018-0145 and ***In the Matter of the Application of KCP&L Greater Missouri Operations Company for Authority to Implement a General Rate Increase for Electric Service***, File No. ER-2018-0145, *Order Approving Stipulations and Agreements*, issued October 31, 2018.

transformers, and meters,[65] and implement Staff's recommendations in *Staff Report On The Estimated Costs And Benefits Of A Make Ready Tariff For Separately-Metered EV Charging.*

Charge Ahead-Business Solutions

As Staff and OPC have explained through testimony, the hearing, and briefing, the Charge Ahead-Business Solutions Program ("Business Solutions") should be rejected, and the variance from the Commission's promotional practice rules should be denied.

The two primary concerns as explained by Staff and OPC are unreliable assumptions and free ridership. For instance, Ameren Missouri praises the program as creating flexible load that can charge at different times of the day and result in more efficient use of the grid.[66] However, without TOU to incentivize charging at different times of the day, the program is a clear load building exercise.[67] Approval of load building programs should be highly scrutinized in light of the statutory aims of the Missouri Energy Efficiency Investment Act (MEEIA) which ratepayer funds are utilized to achieve. Ultimately, approval of a load building program and a load reduction program results in ratepayers paying for promised benefits that are negated with competing programs that cancel each other out.[68]

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[65] Tr. Vol. IV, p. 435, l. 4-9, referencing page 46 of the Commission's *Report and Order* in File No. ER-2016-0285 ***In the Matter of the Application of Kansas City Power & Light Company for Authority to Implement a General Rate Increase for Electric Service*****.**
[66] *Initial Post Hearing Brief of Ameren Missouri*, p. 36.
[67] Tr. Vol. IV, p. 323, l. 20-21.
[68] Tr. Vol. IV, p. 378, l. 7-11.

Ameren Missouri also claims that the study results allow incentives for 2,465 eligible pieces of equipment, and thus of course benefits will accrue.[69] But with variability in incentive costs depending on the measure, and the variability in kWh production, with ground power units (GPU) resulting in 250,000 kWhs, but belt loaders measure result in 5,000 kWh,[70] the level of each measure assumed has a large impact on the benefits the program produces. The RIM results produced rely on many assumptions,[71] which may or may not come to pass.

Free ridership is also a huge concern, as the electric forklift share of the market is around 50%, and with the market share trending higher.[72] As OPC's economist Dr. Geoff Marke notes, "We're at 56 percent in Missouri in 2016. That's a saturated market."[73] He also notes that economists agree that subsidies are only appropriate for the initial stage, when the new technology has 5-10% of the market.[74]

Ameren Missouri also confuses Staff's primary objection to the program, stating it is a vague concern about indirect competition with natural gas.[75] Staff's primary concerns about the program are the free ridership and unreliable assumptions, as reiterated above. Staff believes those issues with the program mean that the Business Solutions Program is not an effective program that would not achieve benefits for all ratepayers that would manifest good cause to support a variance of the Commission's promotional practice rules, especially *in light* of the concerns Staff also has about competition with natural gas. Staff witness Byron Murray explained two clear

[69] *Initial Post Hearing Brief of Ameren Missouri*, p. 36.
[70] Ex. 4, *Pickles Direct* at DP-D2-50.
[71] Tr. Vol. IV, p. 431, l. 9-17.
[72] Tr. Vol. IV, p. 337, l. 12-16.
[73] Tr. Vol. IV, p. 334, l. 20-21.
[74] Tr. Vol. IV, p. 334, l. 17-19.
[75] *Initial Post Hearing Brief of Ameren Missouri*, p. 7.

cut examples of competition. A compressed natural gas (CNG) seller, who purchases gas from Spire to compress and sell to others, including forklifts, sells less CNG if people are incented to purchase electric forklifts over CNG forklifts,[76] which in turns means the CNG seller buys less natural gas from Spire.[77] Similarly, a customer who purchases or would purchase natural gas from Spire to compress themselves for use in their equipment, and is incented to add a new electric forklift or chose the electric forklift over the CNG version when first purchasing, results in additional sales flowing to Ameren Missouri over Spire.[78] Staff is not willing to recommend potential winners and losers in terms of competing utility sales.

Another concern is the high level of administrative and program costs. As Dr. Marke explains, if half of the service territory is already electric, and ICF claims they will not target the non-electric portion that is replacing electric, or would have bought electric forklifts anyway,[79] then ICF only has a small portion of the market to target, and has five years to move the measures.[80] For the amount of money Ameren Missouri is spending in administrative fees, Ameren Missouri could give away the electric forklifts or other measures that Ameren Missouri purports will benefit all customers through additional revenues, instead of an out of state corporation receiving the funds with no resulting additional revenues for those dollars.[81] Dr. Marke also notes the principal agent issue at play, in which unlike MEEIA that has differentiation between

[76] Staff notes Ameren Missouri tries to refute Staff's position by noting that replacement forklifts have to replace gasoline, diesel, or propane forklifts, failing to acknowledge that inducing new or additional electric forklifts over a customer contemplating a new or additional CNG forklift results in competition. Tr. Vol. IV, p. 433, l. 16-21.
[77] Tr. Vol. IV, p. 433, l. 1-8.
[78] Tr. Vol. IV, p. 433, l. 9-15.
[79] Ex. 11, *Hand Drawn Pie Chart-Pickles Testimony*.
[80] Tr. Vol. IV, p. 339, l. 4-14.
[81] Tr. Vol. IV, p. 340, l. 2-4.

those that design the program, implement the program, and evaluate the program, here one company does all three activities.[82]

The Commission should reject the Business Solutions program and deny the request for a variance from the Commission's promotional practice rules.

Cost Recovery

Staff continues to recommend no deferral accounting is appropriate for Ameren Missouri, either in the form of a "tracker" or an accounting authority order (AAO). The Uniform System of Accounts (USOA), which has been adopted by the Commission, instructions state that a utility's net income shall reflect all items of profit and loss during the current period.[83] Due to this standard, the courts have found that "because rates are set to recover continuing operating expenses plus a reasonable return on investment, only an extraordinary event should be permitted to adjust the balance to permit costs to be deferred for consideration in a later period."[84] Ameren Missouri argues that the Commission should provide deferral treatment for new programs to encourage their adoption.[85] However, Ameren Missouri's own witness testified that, "if any extraordinary items come up, I think they probably ought to follow that. I don't think the Charge Ahead has any extraordinary items in it, so."[86] Mr. Wills both agrees that the Commission should follow the USOA and that Charge Ahead is not extraordinary. At this point, the Commission's inquiry should be at

[82] Tr. Vol. IV, p. 325, l. 14-25 and Tr. Vol. IV, p. 382, l. 1-14.
[83] Ex. 103, *Oligschlaeger Rebuttal*, p. 3, l. 19-23.
[84] ***State ex rel. Office of the Public Counsel v. Public Service Commission***, 858 S.W.2d 806, 811 (Mo.App. 1993)
[85] *Initial Post Hearing Brief of Ameren Missouri*, p. 34.
[86] Tr. Vol. II, p. 242, l. 7-10.

end. Only extraordinary items can be granted deferral accounting. This applies to both AAOs and trackers. An event or expense must be unique, non-reoccurring, and unusual to meet the threshold for an AAO.[87] Staff has applied three metrics to evaluate a tracker request: new costs imposed by a new law or Commission rule, new costs that are difficult to predict for setting rates, or costs that are unusually volatile. When one or more of these prongs is satisfied, Staff can support deferral accounting to be considered for inclusion in later rate cases, as expenses or events meeting one of the prongs tend to be atypical or unusual. Since trackers act to defer costs, much as an AAO does, the Commission found it appropriate to evaluate requests for trackers under the extraordinary standard.[88] In a 2015 Kansas City Power & Light Company (KCPL) rate case, KCPL requested a tracker for property tax expenses. The Commission found KCPL's property tax increases were not extraordinary, and denied the tracker request.[89] The Western District upheld the Commission's decision to evaluate tracker requests and AAOs in the same manner.

> The PSC has the power, pursuant to section 393.140(4), to prescribe uniform methods of keeping accounts. The PSC has adopted a rule that requires utilities to use the USOA to maintain their books and records. *See* 4 CSR 240–20.030. KCPL's arguments regarding the USOA and its alleged right to use a tracking accounting deferral mechanism completely ignore that the PSC's decision that only extraordinary expenses should be allowed such treatment is a policy decision that has been made by the PSC and is not dictated by whether, in the abstract, the USOA provides a mechanism to defer costs, whatever the type.
>
> The manager of the PSC's auditing unit testified that the PSC will issue accounting authority orders ("AAOs"), which serve to allow a utility to deviate the normal method of accounting for certain expenses, most often associated with "extraordinary" events. The request by KCPL for the "tracking" accounting

[87] Ex. 103, *Oligschlaeger Rebuttal*, p. 4.
[88] See *In the Matter of Kansas City Power & Light Company's Request for Authority to Implement a General Rate Increase for Electrical Service*, Case No. ER-2014-0370, *Report and Order* Issued Sept. 2, 2015, page 53.
[89] *Id.* page 55.

> mechanism is the same as a request for an AAO, as it seeks to book a particular cost, normally charged as an expense on a utility's income statement in the current period, to the utility's balance sheet as a regulatory asset or regulatory liability. The manager testified that the PSC in prior cases has stated that the standards for granting the authority to a utility to defer costs incurred outside of a test year as a regulatory asset are: 1) that the costs pertain to an event that is extraordinary, unusual and unique, and not recurring; and 2) that the costs associated with the event are material.
>
> In deciding that only extraordinary costs qualify for deferral, the PSC has followed the USOA's guidance that "it is the intent that net income shall reflect all items of profit and loss during the period." 18 C.F.R. Part 101, General Instruction 7.[90]

The manager the Western District relied upon is Staff witness Mark Oligschlaeger. Mr. Oligschlaeger is a certified CPA who has been with the Commission's Staff since 1981, and has provided expert testimony on the topic of AAOs and trackers in dozens of cases.[91] Mr. Oligschlaeger credibly testified that Ameren Missouri does not meet the requirements for either a tracker or an AAO.[92] Ameren Missouri bemoans the negative regulatory lag, which it claims will cause Ameren Missouri to suffer a loss if costs are incurred before a rate case.[93] This ignores the positive regulatory lag that Ameren Missouri also receives between rate cases, where reductions in costs and increases in revenues inure to the benefit of shareholders, not customers. If these programs are approved, Ameren Missouri, whose currently authorized return on equity (ROE) is 9.53[94] but as of the last quarterly surveillance report is earning a ** ____ **[95] can hold out on recovering expenses until the rate case, as it would for any other

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[90] ***In Matter of Kansas City Power & Light Co.'s Request for Auth. to Implement a Gen. Rate Increase for Elec. Serv. v. Missouri Pub. Serv. Comm'n***, 509 S.W.3d 757, 769–70 (Mo. Ct. App. 2016), reh'g and/or transfer denied (Nov. 1, 2016), transfer denied (Feb. 28, 2017).
[91] Ex. 103, *Oligschlaeger Rebuttal*, p. 1, l. 12-24 and Schedule MLO-r1.
[92] Tr. Vol. IV, p. 490, l. 23 – p. 491, l. 2.
[93] Ex. 107, *Wills Surrebuttal*, p. 56, l. 19-20.
[94] Tr. Vol. II, p. 96, l. 9-11.
[95] Tr. In Camera Vol. I, p. 99, l. 1.

non-extraordinary item.[96] Ameren Missouri's request for deferral accounting and advanced ratemaking treatment of a seven year amortization period should be denied.

Conclusion

As the answer to each of the questions posed on the *List of Issues* is a resounding NO, the Commission should reject the Ameren Missouri's application. Programs that are not necessary or essential to provide service to customers must undergo strict scrutiny. If programs only benefit the participants of the program, but are paid for by all ratepayers, it is hard to imagine how rates including those programs can be just and reasonable. As the party with the burden of proof, Ameren Missouri has failed to present compelling evidence and thus the Business Solutions program should be rejected in its entirety, requested deferral accounting should be rejected, and the variance from the promotional practice rules should be rejected. As for Charge Ahead-EV, Staff does not recommend approval of the programs, instead Staff recommends the Commission order Ameren Missouri to enter into a stakeholder process to develop and file a "Make Ready" tariff to facilitate installation of customer-owned electric vehicle charging stations.[97] Under such a tariff Ameren Missouri would not require line extension charges from a customer seeking a line extension for separately metered electric vehicle charging that meets public policy considerations to be developed with stakeholder input and included in the tariff.[98] The subsidies under this approach would be limited to the line extension costs

[96] Ex. 103, *Oligschlaeger Rebuttal*, p. 5.
[97] Tr. Vol. 4, p. 442, l. 17-19.
[98] Ex. 100, *Staff Report on the Estimated Costs and Benefits of a Make Ready Tariff for Separately Metered EV Charging*, p. 1.

otherwise payable by the entity seeking to install the charger.[99] If the Commission chooses to allow Ameren Missouri to move forward with the application as filed, Staff backs OPC's request for a performance incentive to ensure captive ratepayers, many of which are low income customers to whom an electric vehicle is an out of reach luxury, are actually benefiting from the project. If the programs are as successful as Ameren Missouri claims they will be, Ameren Missouri will be financially in the same place under OPC's proposal or their own.

WHEREFORE, on the basis of all the foregoing, Staff prays that the Commission will resolve all contested issues as recommended herein by Staff by rejecting the application, and grant such other and further relief as the Commission deems just in the circumstances.

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[99] Ex. 101, *Lange Rebuttal*, p. 3, l. 7- 9.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served upon all of the parties of record or their counsel, pursuant to the Service List maintained by the Data Center of the Missouri Public Service Commission, on this 17th day of January, 2019.

/s/ Nicole Mers