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-2021-0240

<u>Reply Brief of the Office of the Public Counsel</u>

COMES NOW the Office of the Public Counsel ("Public Counsel") and offers this reply brief on class allocation and residential rate plan names.

<u>Issue 22. C. How should any rate increase be allocated to the several customer classes?</u>

The Midwest Energy Consumers Group's (MECG) initial brief urges the Public Service Commission to shift more costs to small consumers. The Missouri Industrial Energy Consumers (MIEC) did not file a brief. The Commission should not assume the arguments of MECG are representative of arguments of any other commercial or industrial customer of Ameren. Ameren has 64 large power service customers, over 600 small power service customers, and over 10,000 large general service customers.[1] MECG identified only one large customer that supports its efforts to shift more costs onto small customers.

MECG uses the term "residential subsidy" sixty times in its brief as if such a subsidy is a given fact. It is not. The class cost studies show no such subsidy

[1] Ameren Minimum Filing Requirement, Schedule 3 – Min. Filing Reqmt. 3(B)3.

exists; or if there is a subsidy, it is so small that given the inexact nature of class cost studies, it does not support any revenue neutral shift to small consumers.[2]

Today's electric service is different than it was thirty years ago when NARUC published its manual of cost allocation methodologies developed over the *previous* thirty years.[3] The markets are different, technology is different, and the generation built today, renewable generation, is different from the fossil fuel generation units built from 1960-1990. Class cost studies should recognize the unique characteristics of electric service in 2022, especially if the goal is closely aligning cost causation with cost allocation.

The current class allocations ordered in the 2020 rate case are just and reasonable until found otherwise by the Commission. Those allocations included a cost shift agreed to by all parties that favored the large classes.[4] The major difference between then and now is the addition of Ameren's wind farms into rate base, and MECG's argument that its members should pay less for the transition to renewable energy than residential and small business customers. The 2020 case was also a rate decrease, not the significant rate increase consumers are facing in today's case, making the 2020 case a far better option for making shifts between customer classes that avoid rate shock.

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[2] Exhibit 205, Staff Class Cost of Service Study.

[3] Exhibit 215, Lange Rebuttal, Schedule SLKL-r1, p. 17.

[4] *Order Approving Stipulations and Agreements*, Case No. ER-2019-0335, March 18, 2020, Corrected Stipulation and Agreement, Exhibit J.

a. States With Wind Generation Reject the A&E Method

MECG cites to several utility commission cases from other states that it alleges support the A&E method. However, those cases are outdated, going back as far as 1968. A look at more recent allocation decisions show commissions rejecting the A&E method. These include the Iowa Utilities Board and the Kansas Corporation Commission, from states thick with wind generation, rejecting the A&E method for the same reasons argued by Staff in this case:

> **Iowa Utilities Board**: "The A&E method assumes that all generation is built to meet peak demand and also to provide reliable energy throughout the year, which is why the allocators are calculated with average demand as well as excess demand. Because wind is not built to meet peak demand, it is more appropriate to allocate wind costs in a manner different from the A&E method's allocation. Currently, on average MISO gives wind power credit for capacity equal to 14 percent of the nameplate capacity of the wind farm, meaning that 86 percent of the nameplate capacity associated with wind cannot be used to fulfill resource adequacy requirements in MISO. Given that wind is built primarily for environmental planning and low cost energy, it is appropriate to allocate wind costs in a way where most of the costs are related to energy use.
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> …
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> Wind generation has high fixed costs, with low variable costs, and provides minimal contribution to meeting peak demand. A basic premise of the A&E method is that fixed costs are incurred primarily to meet peak demand. However, with wind generation, this is not the case. Under the A&E method, residential customers pay a higher proportion of fixed costs and a lower proportion of variable costs, resulting in residential customers paying for most of the wind costs while industrial customers receive many of the benefits. Because of the high amount of wind in MidAmerican's resource mix, using the HCM method prevents a disproportionate amount of wind costs being allocated to residential customers."[5]

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[5] 2014 Iowa PUC LEXIS 94, *113-114, 311 P.U.R.4th 425 (Iowa U.B. March 17, 2014).

Kansas Corporation Commission – "The Commission rejects Wal-Mart's proposal to allocate production capacity costs on an A&E 4CP basis….The A&E 4CP approach is essentially a demand-based allocation methodology that assigns no weight to energy use when assigning production."[6]

Minnesota Public Utilities Commission – "Finally, the ALJ noted that implementation of the XLI's proposed break-even analysis would generally have the effect of replacing Xcel's Stratification Method with a different allocation method—the "Average and Excess" method--resulting in the allocation of less cost to the commercial and industrial classes and more cost to the residential class. The ALJ found this proposal to be unjustified….Having reviewed the record on these issues, the Commission concurs in the ALJ's analysis…"[7]

b. Costs shifting to the residential and small business classes in the last seven Ameren rate cases supports giving those classes a break

MECG claims that in the last seven Ameren rate cases it has been successful in shifting costs onto the small consumers, and asks the Commission to make it eight. This lopsided outcome should stop, and the Commission should not read those outcomes as any indication that there was an overarching goal of eliminating any subsidy. Prior class cost allocations resolved through settlement were not the result of consensus on whether such shifts were cost justified. There was consensus, however, that no party would be prejudiced or bound in any manner by those class cost allocations in future cases.[8]

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[6] 2015 Kan. PUC LEXIS 2459, *58, 324 P.U.R.4th 173 (Kan. Corp. Comm'n September 10, 2015).

[7] 2009 Minn. PUC LEXIS 3, *113-114, 277 P.U.R.4th 96 (Minn. P.U.C. October 23, 2009).

[8] "No Signatory will be deemed to have approved, accepted, agreed, consented, or acquiesced to any substantive or procedural principle, treatment, calculation, or other

Class shifts to appease a few large consumers may have been more acceptable in past economies, with different cost studies, and before the unrelenting pandemic. This time things are different, and the Commission should consider an allocation that places a higher emphasis on economic and pandemic related consumer impacts. Those considerations justify a cost allocation that protects small consumers by limiting their rate increase to the greatest extent supported by the Staff's class cost of service studies.

Alternatively, an equal allocation to all rate classes would allocate an equal percent of the new wind farms to each customer class and each individual customer on an equal percent basis. In theory, the smallest one-bedroom residential apartment customer would pay the same percentage of their bill for the wind farms as the largest industrial user.

c. <u>Section 393.1620 Supports the Staff's Class Allocations</u>

MECG misinterprets § 393.1620 RSMo as "primarily in response to Staff's ever-changing method for allocating fixed production." In reality, the legislature chose *not* to mandate the method MECG wanted it to, and instead gave the Commission discretion to choose from any method recognized by NARUC. It also limited those methods to nuclear and fossil fuels, not the renewable

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determinative issue underlying the provisions of this Stipulation except as otherwise specifically set forth herein. Except as specifically provided herein, no Signatory shall be prejudiced or bound in any manner by the terms of this Stipulation in any other proceeding, regardless of whether this Stipulation is approved." Corrected Stipulation and Agreement, Case No. ER-2019-0335, p. 19.

generation investments mostly at issue in this rate increase. The General Assembly was clearly <u>not</u> making any statement in response to the Commission's Staff, as it purposefully gave the Commission the latitude to order the exact allocation methodologies performed by Staff in this case and past cases.

d. A&E Method Over-Allocates Wind Costs to Residential

MECG complains the Staff's class cost studies overly rely on an energy allocator to allocate renewable energy investments, rather than a capacity allocator. However, MECG's and Ameren's reliance on the A&E method for renewable production costs creates a significant mismatch that would unreasonably allocate more costs to small consumers, and fails to recognize the A&E method is entirely inappropriate for renewable production.[9] The result is small consumers paying a disproportionate share of renewable investments.

The Regulatory Assistance Project's 2020 manual "*Electric Cost Allocation for a New Era*" (RAP Manual) summarizes the problem with the A&E method for renewable generation. The RAP Manual explains, "…wind and solar generation does not necessarily provide firm **capacity** at peak times as envisioned by the legacy frameworks, and it displaces the need for fuel supply, so it doesn't fit as a demand-related cost."[10] The A&E method is a "simplification" that "must be reevaluated given new developments" because it fails to recognize "the cost of capacity (measured in dollars per MW-year) is in large part determined by

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[9] Transcript 371-372, Lange testimony.

energy requirements."[11] "In the classification of costs between capacity and energy, renewable costs that are driven by energy consumption, either directly or indirectly, should be classified as energy related."[12]

As the Staff explained in its initial brief, under the A&E method the large power service (LPS), small power service (SPS), and large general service (LGS) customers would receive a "windfall" by paying for a much smaller portion of wind production costs than the share of benefits those parties will receive. Ameren invested in the wind farms to comply with the Renewable Energy Standard, not meet system peak capacity.[13]

e. Gradualism Concerns Should Apply to All Classes

Ameren's initial brief states that if the Commission were to order the results from the Staff's class cost study indicating a 5% increase for residential and 7.1% for small general service, it would raise rates for other classes by greater than 15%. Ameren's conclusion is inconsistent with the Staff's study showing the only customer class potentially affected to that degree is the LPS class.[14] However, a more gradual increase to the LPS class following the

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[10] Exhibit 215, Lange Rebuttal, RAP Manual, Schedule SLKL-r1, p. 17.

[11] Exhibit 215, RAP Manual, p. 17, p. 55.

[12] Exhibit 215, RAP Manual, p. 126.

[13] "The wind generation project for which Ameren Missouri has been granted a CCN in this case is intended to comply with the renewable energy mandates of the law." *Report and Order,* Case No. EA-2018-0202, p. 5, citing the testimony of Ameren witness Mr. Steve Wills.

[14] Exhibit 205, Staff Class Cost of Service Study, pp. 46-47.

gradualism concept could address this concern. For example, the Commission could cap the LPS rate increase at 10%, and use that to help offset the increase for the residential and SGS classes to less than the approximate 8.8% system wide average revenue increase. The Staff's cost study supports this outcome.

f. Correcting a Misunderstanding of Public Counsel's Purpose

In response to assertions by MECG regarding Public Counsel's advocacy, there is an apparent misunderstanding of § 386.710 RSMo and Public Counsel's purpose, which is to "represent and protect the interests of the public."[15] Public Counsel does not represent any customer or class of customers, and instead advocates for positions that benefit the Missouri public generally. At times, that requires Public Counsel to take positions or sign stipulations that may favor one class over another class. In the last seven Ameren rate cases (according to MECG), Public Counsel agreed to or did not oppose allocations favoring the larger classes. In this case, however, the public interest is served best by an outcome that follows the cost studies and does more to mitigate harmful impacts for Ameren's small customers – the only customers that demonstrated significant economic and health related hardships.[16]

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[15] § 386.710(2) RSMo.

[16] Ameren and MECG demonstrated why the smaller classes need advocacy when those parties objected to Commissioners reading the comments from residential and small business customers – comments explaining their struggles related to the economy and pandemic and how a rate increase would affect them. The Commission chose to read these comments and not silence the public as Ameren and MECG attempted to do.

When a utility incurs large costs and seeks to pass those costs onto all customers, Public Counsel's primary focus is to minimize the rate increase for all customers. Public Counsel employed five subject matter experts during this case, and all five provided testimony seeking to reduce the revenue requirement for all classes.[17] MECG focused its resources on avoiding an equal share of Ameren's wind generation investments by shifting those costs onto Missouri's homes and small businesses, and offered less testimony on revenues.[18]

Issue 17. A. Should the Company be required to change the names for its TOU rate plans?

Ameren's initial brief claims the "metaphorical 'naming ship' has sailed as hundreds of thousands of Residential customers have already progressed through the initial customer education and communications TOU [time-of-use rate] journey." In reality, Ameren migrated over 200,000 customers to the default Daytime/Overnight Service rate, while only 548 customers opted into another TOU option. For the vast majority of the company's more than 1 million customers, the ship remains tied to the dock. Because the current marketing names suggest that customers will experience savings when switching to the TOU rates and, in fact, the rates may result in higher monthly bills, correcting the

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[17] See Public Counsel Exhibits 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418 and 419.

[18] MECG also criticizes Public Counsel for not conducting a class cost of service study and then incorrectly implies that Public Counsel routinely conducted class cost studies in the past. That is simply not true. Public Counsel has generally used its limited resources to address revenue requirement and rate design issues.

name problems will help over 800,000 customers once they receive an advanced meter, as well as customers that may want to rethink their choice.

Ameren argues changing the names will cause confusion, but there should be few impacted customers and no confusion if done properly. For the 201,474 customers on the Daytime/Overnight Service rate, there should be no confusion since the name would be consistent with the name of the service they receive, and hopefully, the rate name appearing on their bill. The *marketing* of these plans is the issue. For the over 200,000 customers that already received the marketing material, the transition should be seamless. At most, it would affect only 548 customers that opted into a Smart Savers or Ultimate Savers rate, and even then, communicating the name change should be simple. For the remaining 800,000 customers, they are not likely to know any marketing name change even occurred. Ameren claims there would be confusion, but provides no details or explanation to support that claim.

Ameren also argues no parties objected to the "Savers" names in Ameren's last rate case. The fact that the parties and the Commission were not aware of these issues in the last case is no excuse for ignoring legitimate concerns and correcting them while it is still early in Ameren's advanced meter deployment. In addition, when the parties considered this issue in 2020, the

parties were unaware of the concerns later brought to light by the Arizona Corporation Commission in its May 2020 decision.[19]

Ameren argues the Staff and Public Counsel have not provided any customer research suggesting the current names are confusing. Public Counsel is asking the Commission to apply common sense to this issue, rather than rely upon further research that would only delay and exacerbate the problem as Ameren continues to market its rate offerings using the problematic names.

WHEREFORE, the Office of the Public Counsel respectfully offers this reply brief.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing were emailed to all counsel of record this 7th day of January 2022.

/s/ Marc Poston

[19] Exhibit 403, Geoff Marke Surrebuttal Testimony, Schedule GM-2.