

**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)	<u>Case No. ER-2022-0337</u>
Its Revenues for Electric Service)	Tariff No. YE-2023-0031

The Office of the Public Counsel's Initial Brief

Respectfully submitted,

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May 5, 2023

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COMES NOW the Office of the Public Counsel and for its Initial Brief states:

Introduction

If the Commission approves and adopts the resolutions of the issues by the settlement agreement filed in this case, then the only issues remaining before the Commission for decision are the updated issues list issues nos. one, two and three (Original issues list issues nos. 4 (including all subparts), 24.B, and 30, respectively). Issue one involves class cost-of-service studies, determining class revenue responsibilities, designing rates, and Ameren Missouri's proposed customer rate switching tracker. Issue two is about Ameren Missouri's continuing property records. Issue three is about avoided capital costs should Ameren Missouri retire its Sioux and Labadie energy stations earlier than planned. Public Counsel's argument is presented by issue after stating its position.

Argument

ISSUE 1 (prior Issue 4)—Class Cost of Service, Revenue Allocation, Rate Design, and Rate Switching Tracker.

- A. How should production costs be allocated among customer classes within a Class Cost-of-Service Study?

Public Counsel's Position: For Ameren Missouri's rates to differ among its customers there must be one or more lawful rational bases for how they differ. Stated differently, Ameren Missouri's customer rates can be discriminatory if that discrimination is rational and lawful; however, Public Counsel is not advocating in this case for the Commission to employ any particular method for allocating/assigning Ameren

Missouri's cost to provide its retail customers electric service among different groupings of customers (customer classes).

- B. How should distribution costs be allocated among customer classes within a Class Cost-of-Service Study?

Public Counsel's Position: When performing a class cost-of-service study, the basis or bases for allocating, or assigning, the costs the utility incurs to provide service among the classes must be rational and lawful. Public Counsel is not advocating in this case for the Commission to employ any particular method for allocating, or assigning, Ameren Missouri's distribution costs to its customer classes.

- C. Which party's Class Cost-of-Service Study should be used in this case and used as a starting point for the non-residential rate design working case agreed to by the parties to the Company's last electric general rate case, File No. ER-2021-0240?

Public Counsel's Position: Public Counsel is not advocating for the Commission to employ any particular method for allocating, or assigning, Ameren Missouri's distribution costs to its customer classes for designing rates in this case; however, for purposes of the *starting* point for the non-residential rate design working case to which parties to Case No. ER-2021-0240 agreed, as the Commission should order the use its Staff's most recent Ameren Missouri class cost-of-service study.

- D. How should any rate increase be allocated to the several customer classes?

Public Counsel's Position: The Commission should not order any revenue neutral shift across classes and that, with the exception of the rates of the company-owned lighting

customers which should not be changed, any rate increase should be implemented by an equivalent percentage increase across all customer classes.

E. What should the customer charges associated with the Residential Class rate plans be?

Public Counsel's Position: They should remain at \$9.00.

a. If the customer charges for the Ultimate Saver and Smart Saver Plans are discounted relative to other residential rate plans, should a minimum demand charge be imposed with customers to be fully educated on the minimum demand charge?

Public Counsel's Position: They should remain at \$9.00. If the Commission decides to discount the customer charges for the Ultimate Saver and Smart Saver Plans relative to Ameren Missouri's other residential rate plan offerings, then to more closely reflect Ameren Missouri's costs to serve its customers on those plans it should order the addition of a demand charge to those rate plans.

F. What changes should be made, if any, to the Residential rate plans offered by the Company?

Public Counsel's Position: Ameren Missouri's Residential Evening/Morning Savers Plan should be the default plan for residential customers Ameren Missouri serves through an AMI meter; however, those customers should be able to elect to switch from Ameren Missouri's Residential Evening/Morning Savers Plan to any of Ameren Missouri's other residential rate plans, including its Anytime (flat) rate plan.

- a. Should Staff's proposal to eliminate the Anytime (flat) rate option for any Residential customers who have an AMI meter be approved?

Public Counsel's Position: No, not at this just over midpoint deployment of Ameren Missouri's residential customer AMI meters.

- b. What changes, if any, should be made to the deployment of residential ToU rate plans?

Public Counsel's Position: None; however, Public Counsel does not oppose shortening the time between when Ameren Missouri installs an AMI meter to serve a residential customer and when that customer is transitioned to Ameren Missouri's Residential Evening/Morning Savers Plan.

- G. What changes should be made, if any, to the Non-Residential, Non-Lighting rate options offered by the Company?

- a. Should Staff's proposal to introduce a time-based overlay for all Non-Residential, Non-Lighting classes for all customers who have an AMI meter and are not served on a time-based schedule be adopted?

Public Counsel's Position: Yes. For decades the lack of sufficiently granular customer usage data has been used as a barrier to offering time-of-use rate plans. Where Ameren Missouri has deployed AMI infrastructure enabling collection of that granular data, the Commission should allow Ameren Missouri's customers to immediately begin to benefit from Ameren Missouri's massive investment in AMI infrastructure.

- b. Should MECG's proposed shift to increase the demand component for Large General Service and Small Primary Service and decrease energy charges be adopted?

Public Counsel's Position: Only if the Commission determines that the customers in those classes using the most kWhs of energy should not be getting price signals to encourage them to minimize their energy consumption.

- c. Should the Commission approve MECG's proposed optional EV charging 3M/4M rate design?

Public Counsel's Position: No, for multiple reasons. First, implementing MECG's proposed optional EV charging 3M/4M rate design would undermine accretive earnings assumptions which were used to justify Ameren Missouri Charge Ahead portfolio. Second, MECG's proposal does not align with cost causation. Third, MECG's proposed optional rate design is for specialty end-use rates. Fourth, MECG's proposed optional rate design likely would attract free riders at the expense of the rest of the customers in the 3M and 4M customer classes. Additionally, MECG's proposed optional rate design adds complexity without commensurate benefit.

- d. Should the Rider C factor be adjusted?

Public Counsel's Position: Public Counsel is not advocating a position on this issue.

- e. Should the values for the monthly customer charge, Rider B credits, and Reactive Charge remain consistent for SPS and LPS customers because these costs are effectively the same regardless of the customer class?

Public Counsel’s Position: Public Counsel is not advocating a position on this issue.

H. Rate structures:

- a. Should the cost-causation and rates of Riders B & C be fully evaluated?

Public Counsel’s Position: Public Counsel is not advocating a position on this issue.

- b. Ordered Rider B Study - Did Ameren Missouri comply with the Report and Order in ER-2021-0240 at pages 31 – 34, where the Commission addressed whether it should require “Performance of a study of the reasonableness of the calculations and assumptions underlying Rider B to be filed as part of the Company’s direct filing in its next general rate case?” The decision paragraph at pages 33-34 states “The Commission will not suspend the Rider B credits, but it believes the question of the proper calculation of those credits should be further addressed in Ameren Missouri’s next rate case. Therefore, the Commission will direct Ameren Missouri to study the reasonableness of the calculations and assumption underlying Rider B and to file the results of that study as part of its direct filing in its next general rate case.”

Public Counsel’s Position: Public Counsel is not advocating a position on this issue.

- c. Should Ameren Missouri be ordered to record transmission assets related to maintenance of voltage support due to the retirement of large synchronous generators be recorded to new subaccounts?

Public Counsel’s Position: Public Counsel is not advocating a position on this issue.

- d. Should Ameren Missouri be ordered to retain customer and rate schedule characteristics related to draws of reactive demand?

Public Counsel's Position: Public Counsel is not advocating a position on this issue.

- e. Should Ameren Missouri be ordered to create subaccounts within distribution accounts and transmission accounts (plant and reserve) for recording infrastructure related to utility-owned generation?

Public Counsel's Position: Public Counsel is not advocating a position on this issue.

- f. Should Ameren Missouri be ordered to provide a study of the customer-specific infrastructure, by account, by rate schedule, by voltage, in its next general rate case?

Public Counsel's Position: Public Counsel is not advocating a position on this issue.

- g. Should Ameren Missouri be ordered to provide data concerning the level of rate base and expense associated with radial transmission facilities including substation components, by customer?

Public Counsel's Position: Public Counsel is not advocating a position on this issue.

- h. What information should Ameren Missouri provide for any rate modernization workshop, or for its next general rate case?

Public Counsel's Position: Public Counsel is not advocating a position on this issue.

- i. Should Ameren Missouri be required to study potential rate structures and make available related determinants?

Public Counsel’s Position: Public Counsel is not advocating a position on this issue.

- I. Should the Commission authorize Ameren Missouri to track some valuation of estimated revenue changes that may arise from residential customer rate switching?
 - a. Is the Ameren Missouri requested method for calculating the tracker balance reasonable?

Public Counsel’s Position: No. A tracker is not necessary for the Commission to order a rate modernization plan in this and in future cases consistent with the large capital investment made to enable TOU rates. It is entirely premature to consider trackers based on the non-substantial costs and speculative information that is currently before the Commission today. To the extent that pricing disparities in the opt-in ToU rate plans are intended to reflect differences in the cost of wholesale energy over various time periods, any savings actually realized are passed in part to ratepayers and retained in part by shareholders through the FAC. It would not be appropriate to consider the energy portion of differences between rate plan charges in calculating an avoided revenue or bill savings. Increased overall energy consumed as a result of precooling during “off-time” periods creates a scenario where there is not a reasonable accurate tracking method.

- b. Are alternative approaches available to address what Ameren Missouri characterizes as an inherent disincentive for the utility to pursue a rapid transition toward broad adoption?

Public Counsel’s Position: Yes, Ameren Missouri’s residential rate plans can be redesigned so that the differentials in them correspond to the variations in Ameren Missouri’s costs to provide service to those customers during rate plan correlated time periods.

Alternatively, the rates in the Overnight Savers, Smart Savers, and Ultimate Savers plans could be increased so that customers who have opted into one of those plans would provide the same average revenue per kWh as those customers who have not opted into one of the plans.

ISSUE 1 ARGUMENT

The Commission exercises broad discretion when designing rates. It uses class cost-of-service study (“CCOS”) results as a guide, but also considers other factors such as public acceptance, rate stability, and revenue stability.¹ In Ameren Missouri’s last general electric rate case the Commission stated:

“Rather the Commission is exercising its discretion to look beyond the numbers contained in those [class cost-of-service] cost studies to reach a deeper conclusion that the people who are members of the residential rate class have already faced enough challenges in recent years, including an 8.81 percent electric rate increase that will result from this case, and should not, at this time, have to endure an even larger rate increase to address the imbalance described in Ameren Missouri’s class cost of service study.”²

Residential customers still are enduring economic challenges. The agreed-upon rate increase in this case is 5.15 percent. Public Counsel witness Geoff Marke characterized the status of the competing class cost-of-service studies parties presented in this case to be a “mess.”³ Ameren Missouri has not completed deployment of its residential AMI meters—Ameren Missouri witness Steven Wills testified that they were 64% deployed in February 2023 and that Ameren Missouri

¹ *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, *Report and Order* issued February 22, 2022, p.16, ¶22; *In the Matter of Kansas City Power & Light Company’s Request for Authority to Implement a General Rate Increase for Electric Service*, Case No. ER-2014-0370, *Report and Order* issued September 2, 2015, ¶203; 25 MO. P.S.C. 3d 368, 456; and *In the Matter of Union Electric Company, d/b/a AmerenUE’s Tariffs to Increase Its Annual Revenues for Electric Service*, Case No. ER-2010-0036, *Report and Order* issued May 28, 2020, ¶21; 19 MO. P.S.C. 3d 376, 444.

² Case No. ER-2021-0240, p. 23.

³ Ex. 201C, Public Counsel witness Dr. Geoff Marke surrebuttal testimony, p. 26.

expect them to be 77% deployed by July 2023.⁴ In light of all the foregoing, Public Counsel urges the Commission to implement the agreed-upon rate increase as follows:

- 1) Leave rate elements of the company-owned lighting customers unchanged;
- 2) Leave the residential customer charges on all plans at \$9.00 per month; and
- 3) Increase each of the rate elements of each of the customer classes by the same percentage to effectuate the \$140 million increase in annual revenues.⁵

The \$9.00 residential customer charges should remain unchanged⁶ to promote the public policies of energy efficiency and environmental stewardship by economically incenting residential customers to engage in such activities to lower their bills, particularly in light of Ameren Missouri's MEEIA activities.⁷ As Dr. Marke explains, cost-of-service study allocation of distribution costs is fundamentally arbitrary and public policies should heavily weight whether to include them in fixed charges.⁸

For stability while Ameren Missouri is still rolling out AMI meters for its residential customers, but to give those residential customers with AMI meters the greatest flexibility, Public Counsel recommends that the Commission make Ameren Missouri's Residential Evening/Morning Savers Plan the default for residential customers Ameren Missouri serves through an AMI meter; however, those customers should be able to elect to switch from Ameren Missouri's Residential Evening/Morning Savers Plan to any of Ameren Missouri's other residential rate plans, including its Anytime (flat) rate plan, and they should be eligible to make

⁴ Tr. 8:303.

⁵ Consistent with Public Counsel's position statement for Issue I. D.

⁶ Consistent with Public Counsel's position statement for Issue I.E.a.

⁷ Ex. 201C, Public Counsel witness Dr. Geoff Marke surrebuttal testimony, p. 35.

⁸ *Id.* at pp. 30-35.

that switch in less than six months.⁹ Customers familiar with their usage patterns should not have to wait for Ameren Missouri's AMI data to inform their choice of residential rate plan.¹⁰

Public Counsel opposes MECG's proposed optional EV charging 3M/4M rates for the same reasons the Commission's Staff and Ameren Missouri articulated in their testimony.¹¹ They would undermine the accretive earnings assumptions used to justify Ameren Missouri Charge Ahead portfolio. They do not align with cost causation principles. They would be specialty end-use rates. They likely would attract free riders at the expense of the other 3M and 4M customers. They add complexity without commensurate benefit.¹²

Public Counsel strongly opposes Ameren Missouri's proposal to track changes in its revenues that it would attribute to customers switching to/from/among time-of-use rate plans.¹³ To do so effectively would be rate decoupling, an option Ameren Missouri chose to forego when it elected the benefits of plant-in-service accounting.¹⁴ At this time only a few of Ameren Missouri's residential customers are on a time-of-use plan that differs more than minutely in revenue impact from Ameren Missouri's plan that does not vary by time of day and history indicates that is not likely to change without residential customers becoming much more informed and sophisticated about time-of-use rates.¹⁵

⁹ Ex. 201C, Public Counsel witness Dr. Geoff Marke surrebuttal testimony, pp. 27-28; Tr. 8:355-358.

¹⁰ Consistent with Public Counsel's position statement for Issue I.F.

¹¹ Consistent with Public Counsel's position statement for Issue I.G.c.

¹² Ex. 201C, Public Counsel witness Dr. Geoff Marke surrebuttal testimony, p. 27.

¹³ Consistent with Public Counsel's position statement for Issue I.I.

¹⁴ Tr. 8:361-363, Public Counsel witness Dr. Geoff Marke; §§ 386.266 .3 & 393.1400, RSMo.

¹⁵ Ex. 201C, Public Counsel witness Dr. Geoff Marke surrebuttal testimony, p. 26.

ISSUE 2 (prior Issue 24B) -- Depreciation/Continuing Property Record ("CPR").

- A. Should the Company be ordered to change the manner that property retirements are recorded to its CPR?

Public Counsel's Position: Yes. If Ameren Missouri continues to use Iowa curves to estimate which property (dollars) to retire in its CPR, then those same Iowa curves will determine the depreciation rate for that mass property, regardless of how that property actually retires. Iowa curves are a reasonable way to determine depreciation rates when applied to actual retirement data, but they are not a reasonable way to estimate retirements when depreciation analysts use those same curves to determine depreciation rates from the data created by applying those same Iowa curves.

ISSUE 2 ARGUMENT

Ameren Missouri relies on survivor curves to select the mass asset property values to retire.¹⁶ Depreciation analysts then apply survivor curves to the resulting data to determine the depreciation rate for each type of mass asset property.¹⁷ The problem is that when the mass asset property values to retire are estimated by survivor curves, then the survivor curve used to select the mass asset property values to retire necessarily makes the continuing property records data conform to that survivor curve. Since depreciation analysts use those same survivor curves to determine depreciation rates, the survivor curves used to select the mass asset property values to

¹⁶ Tr. 8:481, Ameren Missouri opening statement; Ex. 184, Ameren Missouri's response to Staff data request no. MPSC 0209.1; Ex. 43, Ameren Missouri witness John Spanos rebuttal testimony, pp. 18-19; Ex. 47, Ameren Missouri witness Mitchell Lansford rebuttal testimony, pp. 7-10; Ex. 118, Staff witness Cedric Cunigan rebuttal testimony, p. 4.

¹⁷ Ex. 117, Staff witness Cedric Cunigan direct testimony, pp. 7-12.

retire will be the survivor curves from which they derive the depreciation rates.¹⁸ Public Counsel opposes Ameren Missouri, or any utility, using a survivor curve to estimate the values of a mass asset property to retire when the resulting conforming data means that the same survivor curve then will determine the depreciation rate for that mass asset property.

ISSUE 3 (prior Issue 30) -- Identification of Avoided Capital Investments for the Sioux and Labadie Coal Plants.

- A. Should the Company be required to identify avoided capital investments should the Sioux or Labadie Energy Centers retire earlier than currently planned as recommended by Sierra Club witness Comings?

Public Counsel's Position: Public Counsel is not advocating a position on this issue.

Respectfully,

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¹⁸ Ex. 43, Ameren Missouri witness John Spanos rebuttal testimony, pp. 18-19.

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 5th day of May 2023.

/s/ Nathan Williams