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## Exhibit No. 265

Commission Staff – Exhibit 265 Mark L. Oligschlaeger Surrebuttal Testimony (Gas) File Nos. ER-2021-0240 & GR-2021-0241

Exhibit No.:

Issue:

Witness:

Rate Case Expense Mark L. Oligschlaeger

Sponsoring Party:

MoPSC Staff

Type of Exhibit:

Surrebuttal Testimony

Case No.:

GR-2021-0241

Date Testimony Prepared:

November 5, 2021

# MISSOURI PUBLIC SERVICE COMMISSION FINANCIAL AND BUSINESS ANALYSIS DIVISION

### SURREBUTTAL TESTIMONY

**OF** 

MARK L. OLIGSCHLAEGER

UNION ELECTRIC COMPANY, d/b/a Ameren Missouri

CASE NO. GR-2021-0241

Jefferson City, Missouri November 2021

1	SURREBUTTAL TESTIMONY					
2	OF					
3	MARK L. OLIGSCHLAEGER					
4 5	UNION ELECTRIC COMPANY, d/b/a Ameren Missouri					
6	CASE NO. GR-2021-0241					
7	Q. Please state your name and business address.					
8	A. Mark L. Oligschlaeger, Missouri Public Service Commission ("Commission"					
9	or "PSC"), Governor Office Building, 200 Madison Street, P.O. Box 360,					
10	Jefferson City, Missouri 65102.					
11	Q. Are you the same Mark L. Oligschlaeger that has previously filed rebuttal					
12	testimony in this proceeding?					
13	A. Yes, I am.					
14	Q. What is the purpose of your surrebuttal testimony?					
15	A. The purpose of my surrebuttal testimony is to respond to Ameren Missouri					
16	witness Tom Byrne's rebuttal testimony regarding the Missouri Public Service Commission					
17	Staff's ("Staff") proposed sharing of Ameren Missouri's rate case expense between its					
18	customers and shareholders. Staff has already addressed many of Mr. Byrne's rebutta					
19	arguments in its previous direct and rebuttal filings in this case. Accordingly, I will respond to					
20	only a couple of points on this issue in my surrebuttal.					
21	Q. At pages 2 - 4 of his rebuttal testimony, Mr. Byrne claims that Staff is					
22	recommending sharing of rate case expense for major utilities as a "general policy," and not					
23	based upon a case-by-case analysis. Is this accurate?					

- A. No. There are case-specific scenarios where Staff would not recommend sharing of rate case expense. This would include cases in which the costs of outside assistance is truly held to a minimum by utilities. This scenario has rarely occurred for major utility rate case filings in recent years in Missouri.
- Q. Please provide examples of when major Missouri utilities filed rate cases featuring minimal incremental rate case expense in the past.
- A. The Staff Report concerning review of rate case expense matters, filed on September 4, 2013 in Case No. AW-2011-0330, referenced several cases filed in 2007 and 2010 by Laclede Gas Company (now part of Spire Missouri) in which that utility sought rate case expense recovery in an amount at or under \*\* (prior to normalization). At that time, \*\*

  \*\* While the Commission's sharing policy was not in effect at the time of those cases, if a major utility conducted its general rate proceedings currently at a comparable cost, Staff probably would not recommend

Additionally, Atmos Energy Corporation and Empire District Gas filed rate cases in the 2009 – 2010 time frame for which they incurred total rate case expenses of \*\* or less.

shareholder-customer sharing of rate case expenses.

- Q. Do you agree with Mr. Byrne that a rulemaking proceeding is needed to continue to utilize rate case expense sharing in utility rate cases in this jurisdiction?
- A. No. The Commission should retain the discretion to consider this issue on a case-by-case basis based on the facts and evidence presented by the parties. Staff notes that the Commission, while consistently ordered sharing in recent rate cases, has varied from

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- Mark L. Oligschlaeger case-to-case regarding the formula for sharing, using a 50/50 shareholder-customer split in 1 some cases and ordering sharing based upon the ratio of the amount of relief granted to the 2 amount requested in others. Even in the context of rate case expense sharing, the Commission's 3 approach has not been uniform for each utility case. 4 Another primary topic of Mr. Byrne's rebuttal testimony on this issue is his 5 Q. claim that Ameren Missouri has filed a "cleaner" case than other recent utilities; "cleaner" 6 seeming to mean that the Ameren Missouri case features fewer shareholder-friendly proposals 7 than other companies' rate cases. Do you agree that Ameren Missouri's case is uniquely 8 friendly in comparison with other recent rate case filings by other utilities? 9 10
  - No. Ameren Missouri is seeking a return on equity (ROE) allowance that is A. significantly higher than the average of recent ROEs awarded by regulatory commissions in other jurisdictions, as well as being significantly higher than other recent ROEs awarded by the Missouri Commission.
  - Should the Commission consider the number of and the nature of the issues Q. brought forward by a utility in a rate proceeding to determine whether rate case expense sharing is appropriate?
  - Yes, but many other factors are relevant and should be considered by the A. Commission as well, including the total amount of rate case expense incurred, and the number of and the hourly rates of the outside attorneys and witnesses used, and whether the rate case filing was a discretionary decision by the utility.
    - Does this conclude your surrebuttal testimony? Q.
    - A. Yes, it does.

#### BEFORE THE PUBLIC SERVICE COMMISSION

#### OF THE STATE OF MISSOURI

d/b/a Ameren Missouri's Ta Revenues for Natural Gas S	ne Matter of Union Electric Company a Ameren Missouri's Tariffs to Adjust Its renues for Natural Gas Service  AFFIDAVIT OF MARK			Case No. GR-2021-0241
Arra	DA VII	OF MAK	K L. OL	IGBCIILAEGEA
STATE OF MISSOURI	)	SS.		
COUNTY OF COLE	)	33.		
				•

COMES NOW MARK L. OLIGSCHLAEGER, and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing Surrebuttal Testimony of Mark L. Oligschlaeger; and that the same is true and correct according to his best knowledge and belief.

Further the Affiant sayeth not.

MARK L. OLIGSCHLAEGER

#### **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 \_\_\_\_\_\_ day of November, 2021.

Notary Public

DIANNA L. VAUGHT Notary Public - Notary Seal State of Missouri Commissioned for Cole County My Commission Expires: July 18, 2023 Commission Number: 15207377