Exhibit	A
Issue(s):	Inflation Reduction Act
Witness:	Mitchell J. Lansford
Type of Exhibit:	Supp. Dir. Testimony
Sponsoring Party:	Union Electric Company
File No.:	ER-2022-0337
Date Testimony Prepared:	October 12, 2022

MISSOURI PUBLIC SERVICE COMMISSION

FILE NO. ER-2022-0337

SUPPLEMENTAL DIRECT TESTIMONY

OF

MITCHELL J. LANSFORD

ON

BEHALF OF

UNION ELECTRIC COMPANY

D/B/A AMEREN MISSOURI

St. Louis, Missouri
October 2022

TABLE OF CONTENTS

SUPPLEMENTAL DIRECT TESTIMONY

OF

MITCHELL J. LANSFORD

FILE NO. ER-2022-0337

I. INTRODUCTION

Q. Please state your name and business address.

A. My name is Mitchell Lansford. My business address is One Ameren Plaza, 1901 Chouteau Ave., St. Louis, Missouri.

Q. Are you the same Mitchell Lansford that submitted direct testimony in this case?

A. Yes, I am.

II. PURPOSE OF TESTIMONY

Q. What is the purpose of your supplemental direct testimony?

A. Less than two weeks after the Company filed this rate review, Congress passed the Inflation Reduction Act ("IRA"), which significantly amended the federal Internal Revenue Code ("IRC"). President Biden signed the IRA into law four days later, on August 16, 2022. The IRA reflects a significant overhaul in federal tax policy and the approach to levying federal income tax, including through imposition of a new corporate minimum tax but also by providing significant tax credits associated with zero-emission energy production. The purpose of my supplemental direct testimony is to detail the income tax effects of the IRA and outline a deferral request (i.e., a tracker) designed to ensure that all the tax impacts of the IRA are ultimately reflected in revenue requirements used to set the Company's rates, including as a means to ensure customers are provided the benefits of tax credits established by the IRA.

III. INCOME TAX EFFECTS OF THE IRA

Q. When is this new law effective?

A. The new law is effective January 1, 2023, which is before new rates are expected to become effective in this rate review and only one day after the ordered true-up period. However, certain aspects of the new law commence at later dates, and I will further identify those dates as I describe the impacts of the new law.

Q. Under the IRA, what changes in tax law will directly impact the Company?

A. There are five categories of changes in tax law that will directly impact the Company: 1) significant extension and modification of tax credits for new solar and wind developments, 2) implementation of tax credits for other new zero emission developments, 3) implementation of tax credits for existing nuclear generating facilities, 4) transferability of tax credits originating under the IRA, and 5) implementation of corporate minimum tax ("CMT") payments.

Q. Please describe the extension and modification of tax credits for new solar and wind developments.

A. Effectively, the IRA provides at least a 10-year extension of a taxpayer's ability to qualify for tax credits associated with new solar or wind developments.[1] However, existing terms related to the tax credits have been modified in several ways. First, the IRA expanded Production Tax Credits ("PTCs") to make them available to solar generating facilities. Taxpayers will continue to have the option to select Investment Tax Credits ("ITCs"), instead of PTCs, for both new wind and solar developments and might

[1] Continues until the later of greenhouse gas emissions reduce by 75% from 2022 levels or 2032. Credits then begin to phase out through annual reductions of 0%, 25%, 50%, and 100%.

do so if the ITCs provide superior value in a given situation.[2] For all available PTCs and ITCs and beginning for developments placed in service after December 31, 2024, the base level of credits is reduced to one-fifth of existing levels. However, if a company satisfies requirements related to prevailing wages and apprenticeships, it will qualify for a five times multiplier on top of the base credit, resulting in a total credit equal to the existing value of credits. Finally, a project may qualify for additional bonus credits based on its location or the community it serves. Based on the Company's planned transition to more renewable sources of generation, as outlined in its Notice of Change in Preferred Plan associated with its Integrated Resource Plan ("IRP") filed on June 22, 2022 in File No. EO-2022-0362, and subject to the Commission's approval of the appropriate Certificates of Convenience and Necessity for the Company to construct, own, and operate the resources detailed in that plan, it is anticipated that an estimated $1.3 billion[3] of PTCs will be obtained from 2023 to 2032 originating from new solar and wind developments. Further, the value of PTCs is expected to consistently increase on a year by year basis over this period as new renewable developments are placed in service and the value of PTCs is adjusted for inflation.

Q. Please describe the implementation of tax credits for other new zero emission developments.

A. The types of resources eligible for the PTCs and ITCs referenced above expand to other zero emissions resources including new nuclear, battery storage, hydrogen, and other developments. The terms of available PTCs and ITCs are, generally, the same as was described for new solar and wind developments above although with some differences

[2] The Company's current expectation is it will, generally, elect PTCs over ITCs for new solar and wind developments because PTCs are expected to provide superior value.
[3] $1.8 billion impact on the Company's revenue requirements after consideration of the applicable tax gross-up.

for specific technologies. For example, battery storage projects qualify for ITCs but do not qualify for PTCs. The Company is still evaluating these provisions of the IRA and has not yet estimated any impact.

Q. Please describe the implementation of tax credits for existing nuclear generating facilities.

A. PTCs are available for existing nuclear facilities, like the Company's Callaway Nuclear Energy Center ("Callaway"), beginning in 2024. The obvious policy objective of PTCs for existing nuclear facilities is to ensure a greater number of these facilities remain online over the next 10 years and continue to produce energy with zero emissions. To that end, the calculation for determining whether and to what extent PTCs are generated at a facility includes an assessment of gross receipts from the facility. If the gross receipts do not reach a threshold level, on a per megawatt hour basis, PTCs will be available to the owner of the facility. Functionally, this produces a minimum value attributable to a nuclear generating facility either through gross receipts, PTCs, or some combination of the two. In addition to the base credit, a five times multiplier may be obtained if a company satisfies requirements related to prevailing wages and apprenticeships. The full calculation is as follows[4]:

[4] Inflation Reduction Act of 2022, Pub. L. No. 117-169, §45U, 136 Stat. 1818 (2022).

> (a) AMOUNT OF CREDIT. — For purposes of section 38, the zero-emission nuclear power production credit for any taxable year is an amount equal to the amount by which—
>
> (1) The product of—
> (A) 0.3 cents, multiplied by
> (B) the kilowatt hours of electricity—
> (i) produced by the taxpayer at a qualified nuclear power facility, and
> (ii) sold by the taxpayer to an unrelated person during the taxable year, exceeds
> (2) the reduction amount for such taxable year.
>
> ……….
>
> (2) REDUCTION AMOUNT. —
> (A) IN GENERAL. — For purposes of this section, the term 'reduction amount' means, with respect to any qualified nuclear power facility for any taxable year, the amount equal to the lesser of—
> (i) the amount determined under subsection (a)(1), or
> (ii) the amount equal to 16 percent of the excess of—
> (I) subject to subparagraph (B), the gross receipts from any electricity produced by such facility (including any electricity services or products provided in conjunction with the electricity produced by such facility) and sold to an unrelated person during such taxable year, over
> (II) the amount equal to the product of—
> (aa) 2.5 cents, multiplied by
> (bb) the amount determined under subsection (a)(1)(B).

The value of PTCs associated with Callaway may vary significantly from year to year based on gross receipts from the facility, availability, and other factors. For illustrative purposes, if the formula had existed previously and had it been applied to the Company's historical nuclear operations and gross receipts, as approximated by Midcontinent Independent System Operator energy and capacity revenues, the PTCs would be estimated at $130 million, $140 million, $120 million, $10 million, and $0 in 2018, 2019, 2020, 2021, and 2022, respectively.[5] For a variety of reasons, it is difficult to accurately estimate the impact of PTCs applicable to Callaway at this time, including because the values depend

[5] Callaway was on extended unplanned outage for approximately the first six months of 2021, which would have reduced the level of PTCs that would have been earned.

on volatile energy and capacity market prices and because the IRS has not issued Treasury Regulations to address how gross receipts will be calculated. Consequently, for financial projection purposes the Company is currently and conservatively projecting no value for PTCs at Callaway from 2024 to 2032 but that conservative projection could be a significant undervaluation.

Q. Please describe the transferability of tax credits originating under the IRA.

A. This is a significant change as compared to previous tax credits relating to renewable generation and one that could offer great benefit to our customers. Tax credits originating under the IRA may be transferred (i.e., sold) to unrelated parties for cash proceeds. This will provide for another means to monetize the credits, in addition to utilizing credits to offset current income taxes or partnering with tax equity investors. Just how the market will develop for the transfer of these tax credits is uncertain, but it stands to reason that some cost or reduction in value will exist upon the transfer of the credits to an unrelated party. This is simply a recognition of the fact that a purchaser would just as soon pay the tax instead of paying 100 cents on the dollar for a tax credit. The Company currently sells certain State of Missouri tax credits for approximately 90 cents on the dollar, and we expect the market for IRA PTCs and ITCs to be roughly similar and perhaps even more favorable. It should be noted that even though there likely will be some cost associated with transferring these tax credits, it may be prudent for the Company to do so in the future. Should the Company determine it is prudent to hold excess PTCs or ITCs for use in a future year, as opposed to selling those credits, a credit carryforward deferred tax asset would be recorded in the Company's accounting records. Reflecting the uncertainty of the market for transferring IRA tax credits, the Company currently estimates approximately a two-year lag in tax credit utilization and resulting estimated revenue requirement increases of a cumulative total of $218 million from 2023 to 2032 relating to credit carryforward deferred tax assets resulting from the IRA.[6]

Q. Please describe the implementation of CMT payments.

A. It was essential to the legislative process that the IRA more than pay for itself, resulting in a reduction in the national deficit. The CMT ensures that large corporations, like Ameren and Ameren Missouri, make income tax payments of at least 15% of adjusted financial statement income annually. The CMT is not designed to increase the total taxes paid over the life a corporation, but instead result in those taxes being paid earlier in the life of a corporation than what would otherwise occur without the CMT. Only corporations whose three-year average annual adjusted financial statement income is greater than $1 billion are subject to the CMT. The adjustments to financial statement income that are currently applicable to the Company are to add back federal tax expense and then add or subtract tax depreciation expense in excess of book depreciation. In accordance with an Amended and Restated Tax Allocation Agreement that is expected to be executed during the fourth quarter of 2022, the Company will remit payment to Ameren Corporation for its share of tax payments resulting from its contribution of adjusted financial statement income to the CMT. Much like when the Company records deferred tax liabilities when tax payments must be made in future periods, the Company will record deferred tax assets for CMT payments in acknowledgement that these tax payments were made in advance of when they would otherwise be required. In future periods where

[6] Reflects a partial offset to the $1.3 billion of PTCs previously mentioned ($1.8 billion cumulative revenue requirement impact after consideration of tax gross-up).

income taxes are owed in excess of the CMT, the Company's CMT deferred tax assets will reverse and result in a reduction in tax payments during those periods. Without consideration of rate case timing, the estimated impact of the CMT on the Company's revenue requirement from 2023 to 2032 is an aggregate increase over that period of approximately $270 million which, as noted, we expect to be more than offset by the substantial wind and solar production tax credits I discussed earlier (i.e., the $1.3 billion of such credits we expect to receive as we implement our renewable generation additions consistent with our current preferred resource plan).

Q. Why will the Tax Allocation Agreement be amended and restated?

A. Simply put, the IRA is a fundamental shift in federal income tax policy. Under this new view, it is necessary to amend and restate the Tax Allocation Agreement because the current agreement does not account for the significant changes to the IRC implemented by the IRA. Just as the current Tax Allocation Agreement does, the revised agreement will provide for fair and reasonable treatment of Ameren Corporation's affiliates given the IRA's changes to federal tax law. There will be two key aspects of the Amended and Restated Tax Allocation Agreement. First, as I previously mentioned, the agreement will call for each affiliate to pay its share of any applicable CMT based on the proportion of its contribution to the consolidated tax group's adjusted financial statement income. The second key aspect is the agreement will address the transferability of IRA tax credits and ensure that the affiliate whose operations produced the tax credits receives the benefits of those credits. Such a tax allocation agreement, that reasonably allocates the tax impacts to the affiliates that create those impacts, is essential to providing fair compensation to the

Company, and ultimately its customers, for the tax credits generated by the renewable generation and other eligible facilities[7] that give rise to the credits.

IV. IRA TRACKER

Q. Why is a tracker needed?

A. In the Company's current regulatory environment that includes plant-in-service accounting, a tracker is appropriate and necessary to ensure all of the impacts of the IRA are reflected in the Company's revenue requirements used to set rates, including the Company's share of the CMT, but also, and more significantly, the tax credits which via the tracker and later inclusion in Company revenue requirements will benefit customers in the form of lower rates. The impact on the Company's revenue requirements, and therefore customer rates, will be significant, varied, and uncertain as to timing. One glaring example of this is, as I mentioned previously, PTCs at Callaway could be zero in one year and over $100 million in the next. As the figures discussed earlier indicate, on a net basis we currently estimate the IRA would reduce the Company's revenue requirement by approximately $1.3 billion from 2023 to 2032 (a figure that, as noted, assumed no PTCs at Callaway). We estimate the initial impacts in 2023 and 2024 to be minimal, followed by net reductions to the Company's revenue requirements of $50 to $100 million annually from 2025 to 2027, and net reductions to the Company's revenue requirements of $170 million to over $200 million annually from 2028 to 2032. The estimated net present value of revenue requirement impacts directly resulting from the IRA is a reduction of approximately $800 million. On average, we estimate that the net IRA benefits will result in customer rates that are on average approximately four and a half percent lower per year

[7] The costs of which are reflected in rates paid by the Company's customers.

under the IRA than they would have been had the IRA not been enacted.[8] However, if and when customers may experience these benefits is dependent on the timing of future rate reviews, production levels, investment levels, project in-service dates, gross receipts at Callaway, tax credit utilization, the market for sales of tax credits, adjusted financial statement income levels, and other factors.

Q. What problems could arise if the income tax impacts of the IRA that directly affect the Company are not tracked?

A. Among other things, without the tracker, Ameren Missouri would retain the benefits of PTCs earned outside of a test year. A few examples of potential outcomes if the IRA impacts are not tracked include: 1) the existence of new tax credits or prudent sales of tax credits outside of a test year would not benefit customers,[9] 2) the existence of potentially substantial Callaway PTCs outside of a test year would not benefit customers, or 3) the incurrence of costs associated with the CMT outside of a test year would not be recovered from customers.[10]

Q. How will PTCs be tracked under the Company's IRA tracker proposal?

A. Any value of IRA PTCs recognized in the Company's income statement[11] during a period will be combined with all other costs and benefits included in the IRA and

---

[8] Holding all other factors constant and as compared to customer rates currently in effect.

[9] Additional negative lag for customers would exist without a tracker since the value of the PTCs increases each year.

[10] Even when tax credits or CMT payments do occur in a test year, due to regulatory lag customers may still not receive all of those credits and the Company may still not recover all of the CMT costs.

[11] The Company is in the process of evaluating the proper accounting model for IRA PTCs per the Federal Energy Regulatory Commission ("FERC") Uniform System of Accounts ("USoA"). Specifically, transferability provisions may result in IRA PTCs being recorded as non-operating income rather than a reduction to income tax expense. Regardless, and for the sake of clarity, "IRA PTCs recognized in the Company's income statement" has the meaning of a net offset to expenses or otherwise contribution to net income and results in appropriate tracking regardless of the FERC USoA accounting model.

compared to the monthly tracker base amount. The PTC value will be grossed up for the effect of income taxes on revenues to be reduced in the future.

Q. How will ITCs be tracked under the Company's proposal?

A. Any value of IRA ITCs recognized in the Company's income statement during a period will be adjusted for any applicable normalization rules and then combined with all other costs and benefits included in the IRA tracker will be compared to the monthly tracker base amount. The presence of normalization rules requiring the Company to provide ITC benefits to customers ratably over the life of the investment instead of earlier will be considered when the Company elects, where applicable, to receive ITCs or PTCs related to an investment. The ITC value will be grossed up for the effect of income taxes on revenues to be reduced in the future.

Q. How will the CMT be tracked under the Company's proposal?

A. As mentioned previously, the effect of the CMT will produce a deferred tax asset ("DTA") on the Company's books. The ending monthly balance of this DTA will be multiplied by the Company's weighted-average cost of capital[12] determined in this rate review. This product will then be combined with all other costs and benefits included in the IRA tracker and compared to the monthly tracker base amount.

Q. How will PTC and ITC transfers and credit carryforwards be tracked under the Company's proposal?

A. The method of tracking PTCs and ITCs when recognized in the Company's income statement, that I previously described, results in tracking of these tax benefits without consideration of the purchase price of any tax credits subsequently transferred (i.e.,

[12] Including applicable federal, state, and local income taxes or excise taxes.

sold). I also previously mentioned the tax credits will sell for less than the full value of the credit. This reduction in value that is necessary to attract a purchaser must also be combined with all other costs and benefits included in the IRA tracker, and compared to the monthly tracker base amount. The reduction amount will be grossed up for the effect of income taxes on revenues and calculated in accordance with applicable normalization rules.

The method of tracking PTCs and ITCs when recognized in the Company's income statement may also result in tracking of these tax benefits before each are utilized to offset current income taxes payable if any tax credits are carried forward. In isolation, this provides a greater benefit to customers on a net present value basis than will actually exist. Therefore, further adjustment to the IRA tracker is required and the existing regulatory method for this adjustment is inclusion of the credit carryforward DTA in rate base. Similarly, and for purposes of this IRA tracker, the ending monthly balance of this DTA will be multiplied by the Company's weighted-average cost of capital determined in this rate review.[13] This product will then be combined with all other costs and benefits included in the IRA tracker and compared to the monthly tracker base amount.

Q. What happens after the comparison of monthly costs and benefits to the monthly tracker base amount?

A. If this comparison shows that benefits exceed costs, a regulatory liability will be recorded. If the comparison results in net costs under the IRA tracker, a regulatory asset will be recorded. Any regulatory liability or asset accumulated between the implementation of this tracker and future Company rate reviews will be considered in those

[13] Including applicable federal, state, and local income taxes or excise taxes. As we move through time, the weighted average cost of capital would be updated after each additional rate review.

future rate reviews for inclusion over an appropriate amortization period in the Company's revenue requirement used to set rates.

Q. What IRA costs and benefits should be excluded from the Company's proposed IRA tracker?

A. Any costs or benefits that would otherwise be tracked by existing regulatory mechanisms should be excluded from the IRA tracker in order to prevent double recovery or double refund of such items. The Company tracks tax benefits arising from renewable energy facilities used for compliance with the Missouri Renewable Energy Standard in its Renewable Energy Standard Rate Adjustment Mechanism ("RESRAM"). Therefore, also tracking these benefits in the proposed IRA tracker is inappropriate and would result in a double refund to customers.

Q. What should the base amount of the IRA tracker be set to in this rate review?

A. Due to current uncertainty in the timing and amounts of costs and benefits arising from the IRA and since no historical amounts exist, the base amount of the IRA tracker should be set to zero dollars in this rate review.

Q. When should tracking commence under the IRA tracker?

A. Tracking should begin on the date new rates become effective in this rate review. Our current projections indicate costs and benefits of the IRA may not begin until 2024 or 2025, but we are early in our analysis and this projection may change. More importantly, there is no guarantee the Company will have a future rate review that concludes before the need for tracking arises. There is a real possibility that meaningful tax credits associated with new renewable resources,[14] or associated with Callaway in the event that the level of gross receipts experienced in the future results in PTC qualification, could be recognized prior to the conclusion of the Company's next rate review. The most appropriate time for the Commission to address the volatility that will exist over the next decade is as part of this pending rate review that coincides with the IRA becoming law.

V. CONCLUSION

Q. Please summarize your testimony and conclusions.

A. The Company expects significant net benefits to exist over the next 10 years because of the IRA and the Company's expected development of significant new renewable generation resources that will benefit from its tax credit provisions. However, the timing of these net benefits is uncertain, and the levels of benefits and costs associated with any particular period will vary. The Company requests permission to implement its proposed IRA tracker in order to ensure all of the benefits and costs directly arising from the IRA are provided to and/or recovered from customers.

Q. Does this conclude your supplemental direct testimony?

A. Yes, it does.

[14] The Company's pending CCN application for the Boomtown Solar facility, if approved, is expected to be in service by the end of 2024. The Boomtown facility is not being constructed for purposes of RES compliance, and therefore any PTCs generated by the facility would not be included in the Company's RESRAM.