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Unregulated
Competition Waiver
Witness: Mark C. Birk
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File No.: ER-2019-0335
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MISSOURI PUBLIC SERVICE COMMISSION

FILE NO. ER-2019-0335

DIRECT TESTIMONY

OF

MARK C. BIRK

ON

BEHALF OF

UNION ELECTRIC COMPANY

D/B/A AMEREN MISSOURI

PUBLIC

St. Louis, Missouri

July 2019

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DIRECT TESTIMONY

OF

MARK C. BIRK

FILE NO. ER-2019-0335

I. INTRODUCTION

1

Q. Please state your name and business address.

2

3 A. My name is Mark C. Birk. My business address is One Ameren Plaza, 1901
4 Chouteau Avenue, St. Louis, Missouri 63103.

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4

Q. By whom and in what capacity are you employed?

5

6 A. I am employed by Union Electric Company d/b/a Ameren Missouri
7 ("Company" or "Ameren Missouri") as Senior Vice President, Customer and Power
8 Operations.

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**Q. Please describe your educational background and employment
10 experience.**

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11 A. I received my Bachelor of Science degree in Electrical Engineering from
12 the University of Missouri-Rolla in 1986 and my Master of Science in Electrical
13 Engineering from the same institution in 1991. In 2009, I also received a Master of
14 Business Administration from Washington University in St. Louis. I am a licensed
15 professional engineer in the State of Missouri. I began my employment with Union Electric
16 Company in 1986 as an assistant engineer in the nuclear function. In 1989, I transferred to
17 Union Electric's Meramec Power Plant as an electrical engineer. In 1996, I transferred to
18 the Energy Supply Operations Group and became a Power Supply Supervisor. I became
19 Manager of Energy Supply Operations in the spring of 2000. I became General Manager

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1 of Energy Delivery Technical Services in the fall of 2001 and Vice President of that
2 department in 2002. I became Vice President of Ameren Energy, Inc., Ameren
3 Corporation's short-term trading affiliate, in the fall of 2003 and assumed the position with
4 Ameren Missouri as Vice President of Power Operations in September of 2004. In 2012,
5 I was promoted to Senior Vice President of Corporate Planning and Business Risk
6 Management, and in 2015, I became Senior Vice President of Corporate Safety, Planning,
7 and Operations Oversight. I assumed my current position in 2017.

8 **Q. Please summarize your duties and responsibilities as Senior Vice**
9 **President, Customer and Power Operations for Ameren Missouri.**

10 A. In this position, I am responsible for Generation and Trading Operations,
11 Energy Delivery Electric and Gas Operations, Planning and Engineering Design, along
12 with Customer Experience and call center operations for Ameren Missouri.

13 **II. PURPOSE OF TESTIMONY**

14 **Q. What is the purpose of your direct testimony?**

15 A. The purpose of my direct testimony is twofold:

- 16 • I support use of an incentive to encourage customers to elect paperless
17 billing--an initiative designed to increase customer satisfaction and
18 modernize our business practices; and,
19 • I propose a request for revision of the Company's current Unregulated
20 Competition Waiver found in its tariffs.

21 **Q. Do you have any schedules accompanying your testimony?**

22 A. Yes. I am providing the following schedules in support of my testimony.

23 Schedule MCB-D1 Current Unregulated Competition Tariff

1 Currently, about 204,000 of Ameren Missouri's 1,200,000 customers, or about
2 17%, participate in the Company's paperless billing program. Ameren Missouri wants to
3 encourage customers who may be considering a move to paperless to give it a try. Paperless
4 billing presents certain advantages to utilities and their customers, such as long-term cost
5 savings as compared to paper billing and the use of less paper which contributes to
6 environmental sustainability.

7 **Q. Does the Company seek recovery of these incentives costs in this rate**
8 **case?**

9 A. No. We've designed the incentives to come close to the amount of cost
10 savings the Company will gain from customers switching to paperless billing. No
11 customers will bear the cost of these incentives.

12 **Q. Please explain.**

13 A. The total cost of issuing each paper bill is approximately \$0.47. Paperless
14 billing, by contrast, costs approximately \$0.007.

	Paper Bill Cost per Customer	Paperless Billing Cost Per Customer	Company Savings Per Customer
Monthly	\$0.47 ³	\$0.007	\$0.46
One-Year Incentive Program Life	\$5.65	\$0.08	\$5.57

15 *All costs in this table are rounded to the nearest cent, although totals based on full (unrounded) starting
16 numbers.

17 The savings recognized when a customer shifts from a paper bill to a paperless bill
18 is about \$0.46 per bill. Since there is only \$0.04 difference between the incentive offered

³ More specifically, \$0.4707 monthly charge per customer.

1 and the Company's savings, the Company determined it would absorb the additional \$0.04
2 rather than seek recovery of that amount.

3 **Q. What, then, is the Company requesting with regard to paperless billing**
4 **in this case?**

5 A. The Company is simply asking for the Commission to approve the tariff
6 change it has filed to implement the incentives.

7 **IV. MODIFICATION OF UNREGULATED COMPETITION WAIVER**

8

9 **Q. Please describe Ameren Missouri's request for a modification of its**
10 **unregulated competition waiver.**

11 A. I am supporting Ameren Missouri's request for a revision of the Company's
12 tariff regarding unregulated competition waivers, which is found in Section E of Ameren
13 Missouri's "Pilots, Variances and Promotional Practices" tariffs, at Sheet Nos. 161-161.2.
14 This tariff, entitled "Unregulated Competition Waivers and Other Variances"
15 ("Unregulated Competition Tariff" or "Tariff"), provides a mechanism by which Ameren
16 Missouri can request from the Commission a waiver of all or part of any charges associated
17 with extensions of service to more effectively compete with unregulated competition for
18 customers. Specifically, I will support the expansion of benefits that can be offered under
19 the Unregulated Competition Tariff, and a simplified process for offering and justifying
20 these incentives.

21 **Q. How does competition among electricity providers occur within the**
22 **state of Missouri?**

23 A. While public utilities do have defined and certificated service territories,
24 and while there is a limit on where electric cooperatives and municipal utilities can serve,

1 there are still areas in the state of Missouri that different providers can lawfully serve. As
2 these areas are developed, the Company often finds itself competing with another electric
3 service provider – usually an electric cooperative – in order to serve a new development.
4 Electric cooperatives, unlike investor-owned utilities like Ameren Missouri, are not rate-
5 regulated by the Commission and accordingly have a large amount of flexibility in devising
6 incentive structures to entice new customers. This is a flexibility that the Company has not
7 been able to match and it has prevented the Company from obtaining new load that would
8 benefit its system and ultimately lower the rates of all of its customers.

9 **Q. Why doesn't the Company just rely on the existing tariff?**

10 A. While the existing tariff has, in limited instances, allowed Ameren Missouri
11 to obtain beneficial load, recent experience has shown that it is far too limited and that its
12 terms, as a practical matter, have not always assisted Ameren Missouri in effectively
13 competing for beneficial loads. The current Tariff reads, in relevant part:

14 Where the Company competes for business with unregulated competition,
15 the Company may waive all or part of any charges associated with
16 extensions of service and/or construction deposits ... and any additional
17 non-tariff charges, required in order to effectively compete with offers made
18 to developers and/or customers by unregulated competition after notifying
19 the Missouri Public Service Commission and receiving an Order granting
20 the waiver for good cause shown.

21 In other words, if Ameren Missouri and a cooperative are both in the general area
22 in which a developer is planning construction, Ameren Missouri is allowed to go to the
23 Commission with a proposal to waive certain extension costs to try to sway that developer
24 to taking our service. While we have utilized this option in the past, unfortunately it is a
25 time-consuming process, and the options we can offer developers and potential customers
26 are far more limited than those that can be offered by a cooperative.

1 **Q. Please explain.**

2 A. Generally, when we are approached by a developer, we are being asked to
3 provide a solid, non-conditional, and occasionally creative response within just a matter of
4 days. A developer who asks for an incentive typically does not want to receive an offer
5 that is subject to Commission approval, and does not want to wait a month or more in order
6 to receive that approval. Sometimes the developer asks for fee waivers as allowed by the
7 existing tariff, but increasingly we are seeing requests for other more creative options such
8 as direct incentives to install certain kinds of equipment (e.g., electric heat pumps). The
9 existing tariff, however, only allows us to waive certain charges. In looking at the most
10 recently approved use of the existing tariff, which was in 2013, it took nearly a month to
11 garner approval for a fairly simple request.⁴ Ameren Missouri has since received another
12 request, which has been filed with the Commission in File No. EE-2019-0395. That case
13 was still pending as of June 27, 2019. In other words, File No. EE-2019-0395 represents
14 the first such case to be submitted to the Commission in six years. And before the approved
15 2013 waiver, we last utilized the existing tariff in 2002.⁵

16 I would like to draw attention to a portion of the Staff Recommendation submitted
17 in File No. EE-2019-0396 on June 24, 2019. In its recommendation, Staff noted that it was
18 not able to conduct a thorough investigation of Ameren Missouri's application for the
19 unregulated competition waiver, and specifically noted that any rate impacts of the
20 transaction would be addressed in a general rate case proceeding. This is a noteworthy
21 recommendation because it aligns very closely with what Ameren Missouri is requesting

⁴ See File No. EE-2013-0511.

⁵ See File No. EO-2002-1091.

1 with regard to its new tariff: allow the Company to make these incentive decisions and
2 subject the resulting transactions to a more thorough review in an applicable rate case.

3 **Q. How often does the Company find itself in competition with**
4 **unregulated electric service providers?**

5 A. Quite often. Our field personnel report to me that they find themselves in
6 direct competition with electric cooperatives at least three times a year, and more often
7 than not, the potential customer chooses to do business with the cooperative because the
8 cooperative can quickly offer an incentive and can offer incentives valued by the decision
9 maker – usually the developer as opposed to the person who will ultimately become our
10 electric customer. In other words, only three times in the last 17 years has the Company
11 had sufficient interest from a developer or potential customer to request this tariffed waiver
12 in its current form.

13 **Q. Does the Company have specific instances where they have competed**
14 **with an unregulated electric service provider and lost that competition?**

15 A. Yes. Obviously, I want to be sensitive to the privacy of these customers, so
16 I have included the specific facts around these scenarios in my Confidential Schedule
17 MCB-2. The schedule consists of four recent examples where direct competition with
18 cooperatives, and the Company's inability to provide certain types of incentives in a timely
19 manner, prevented the Company from gaining customers with significant and dependable
20 revenue streams that in each case would have ultimately lowered the revenue requirement
21 for all customers.

22 **Q. Could Ameren Missouri have viably competed with the unregulated**
23 **electric service providers?**

1 A. Yes. In each of the four cases that appear in Schedule MCB-2, we believe
2 that with greater flexibility to meet the competing cooperative's incentive offers to the
3 developer, the developer would have chosen us as the electric service provider. And as
4 noted in each of those four cases, we can demonstrate a positive cost effectiveness analysis
5 for making the investment in order to gain the ongoing benefits the additional service
6 would provide to all of our existing customers. For example, in one situation, the
7 cooperative offered rebates for ground source heat pumps as an incentive; in another
8 situation, the cooperative provided underground conduit installation. Ameren Missouri's
9 existing tariff does not allow either of these incentives, even if we could timely obtain
10 approval. If Ameren Missouri could, in a timely manner, offer similar incentives or have
11 the flexibility to examine other potential incentives at an equal value to the developer or
12 potential customer, it could remain competitive in these situations.

13 **Q. How does Ameren Missouri propose to address this issue?**

14 A. We propose that the Tariff be revised to allow more flexibility in
15 determining what types of incentives can be offered, and subject those decisions to future
16 rate case prudence reviews rather than Commission approval before implementation.

17 We understand that a free rein to offer such incentives cannot be without some
18 limits. We recommend that the incentives we are allowed to offer be subject to an annual
19 cap, as follows:⁶

20 Industrial - \$200K

21 Commercial - \$200K

22 Residential - \$200K

⁶ These caps include labor costs and materials.

1 Ameren Missouri could spend up to \$200K in incentives for each of these three
2 customer types, and no more.⁷ In establishing these caps, we recognize that future
3 incentives will be based on good business practice using our Extension Allowance
4 Calculator. We also believe we will rarely spend up to the caps. These caps, however, will
5 allow us to perform a cost-benefit analysis to determine if we can, and should, meet a
6 cooperative's offer to a developer or potential customer.

7 Further, this revision will allow us to do the necessary analysis and make the offer
8 to the developer or potential customer in a timeline that the developer or potential customer
9 needs. Our experience has been that developers and potential customers need a fast
10 response. As you can see from Example 4 in my Schedule MCB-2, the developer needed
11 an answer quickly, and was not able to wait for Commission approval of an alternative
12 offer. He had work that had to be completed within the following couple of weeks and
13 could not wait the time necessary to apply for and receive approval for an offer. And this
14 is understandable. Developers generally have several moving pieces in completing a
15 construction project, and we cannot reasonably ask a developer to wait for us to submit an
16 application and have that application examined, particularly when there's not even a
17 guarantee that the application will be approved at all, let alone within a month. The
18 proposed revision to the Unregulated Competition Waiver will allow the Company to make
19 more timely offers to customers, and still subject the decisions to make those offers to
20 appropriate regulatory oversight.

21 A draft of our proposed revisions to the Tariff is included as Schedule MCB-3 to
22 my testimony.

⁷ If the Company only spent, for example, \$100K in commercial incentives, it could not shift the remaining \$100K in incentives to either residential or industrial.

1 **Q. Does the Company believe that having this flexibility will provide**
2 **benefits to its existing customers?**

3 A. Yes. From a very basic perspective, if we can gain new customers, then
4 existing fixed costs can be spread among billing units associated with a larger customer
5 base, which creates downward pressure on rates. When a new customer or customers
6 generate sufficient revenues, it takes pressure off of existing customers.

7 **Q. What if the Company's analysis is wrong and the anticipated benefits**
8 **do not materialize?**

9 A. The Company assumes the risk that its calculations are correct and that it
10 has made a prudent business decision. We therefore anticipate that these investments would
11 be subject to the same prudence reviews in relevant rate cases as any other infrastructure
12 investment.

13 **Q. Will Ameren Missouri commit to providing a reporting of the**
14 **incentives it offers under the revised tariff, if it is approved?**

15 A. Yes. The Company has written a reporting requirement into the proposed
16 tariff. Specifically, we commit to maintaining the following documentation and providing
17 it annually to the Commission's Staff:

- 18 • The name, physical location, and applicable rate schedule for the customer
19 or developer receiving incentives;
- 20 • The amount for each type of the incentives for that customer or developer;
- 21 • Documentation of the existence of competition with another electric
22 service provider for the provision of service to the customer or developer;

- 1 • Documentation that provision of service to the developer or customer
2 results in minimal, if any, duplication of facilities at the geographic
3 location where the prospective customer or developer requests service; and
4 • Documentation, prepared at the time the incentives are offered, of the
5 demonstrable economic benefit to the Company's existing customers
6 achieved over a reasonable period of time by providing incentives that meet
7 or exceed the amount of the incentives offered by a competing electric
8 provider.

9 **Q. Does this conclude your direct testimony?**

10 A. Yes, it does.

PILOTS, VARIANCES AND PROMOTIONAL PRACTICES

E. UNREGULATED COMPETITION WAIVERS AND OTHER VARIANCES

UNREGULATED COMPETITION WAIVERS

Where the Company competes for business with unregulated competition, the Company may waive all or part of any charges associated with extensions of service and/or construction deposits, provided for in Company Schedule No. 6 - Schedule of Rates for Electricity, and any additional non-tariff charges, required in order to effectively compete with offers made to developers and/or customers by unregulated competition after notifying the Missouri Public Service Commission and receiving an Order granting the waiver for good cause shown.

The following listed areas, individuals, and/or subdivisions have been granted waivers by the Commission per the associated order numbers:

<u>Order Number</u>	<u>Area and/or Subdivision</u>
EO-90-43	Harbors at Timber Lakes
EO-90-68	Glenwood Hills; Hidden Trails Estates; Country View Estates
EO-90-79	Southwinds Subdivision
EAO 968	Westview Heights Subdivision
EAO 972	Mr. Harvey Massen (Valley View Drive)
EAO 973	Cedar Hills #3
EAO 974	Twelve Oaks Subdivision
EAO 975	Cedar Hills #3 and Twelve Oaks Subdivision
EAO 976	Christman Bros. Subdivision
EAO 977	National Guard Headquarters
EAO 978	Indian Springs Subdivision
EAO 979	Briar Oaks Estates
EAO 980	Thornhill/Schultz Subdivision
EAO 981	Country Lane Subdivision
EAO 982	Mallard Pointe Subdivision
EAO 983	9 Lot Subdivision - Hugh White
EAO 984	22 Lot Subdivision - Bill Reid
EAO 985	Northridge Estates
EA-90-250	14 Lot Subdivision - Larry Hays
EO-91-386	15 Lot Subdivision - Jane Flowers
EO-91-386	Porter South Subdivision
EAO 987	Village Green Subdivision
EAO 986	Rolling Meadows Subdivision

SCHEDULE MCB-D2

IS CONFIDENTIAL IN

ITS ENTIRETY

APPLYING TO MISSOURI SERVICE AREA

PILOTS, VARIANCES AND PROMOTIONAL PRACTICES

E. UNREGULATED COMPETITION WAIVERS AND OTHER VARIANCES

***APPLICABILITY**

Where the Company competes for business with unregulated competition, the Company may provide incentives ("Incentives") to a prospective customer or developer in one or more of the following forms in order to effectively compete with offers made to developers and/or customers by unregulated competition:

1. Waive all or part of any charges associated with extensions of service and/or construction deposits, provided for in Company Schedule No. 6 - Schedule of Rates for Electricity, and
2. Waive any additional non-tariff charges, and
3. Provide payments to offset the prospective customer's or developer's electric-service related costs.

****AVAILABILITY**

Company may only provide Incentives under the following circumstances:

1. Company shall not in any way offer a special rate for electricity delivered to a customer that is not found in the Company's tariff;
2. Competition with another electric provider to provide service to a prospective customer(s) must exist and be demonstrable;
3. The Company shall not provide Incentives if providing service to the customer or developer will result in more than a minimal increase in duplication of facilities in serving the geographic location for which the prospective customer or developer requests service; and
4. The Company must find there is a demonstrable economic benefit to Company's existing customers achieved over a reasonable period of time in serving the prospective customer that meet or exceed the amount of the Incentives offered by a competing electric provider.

****INCENTIVES LIMITS**

The Company may provide Incentives totalling up to \$600,000 per year, divided as follows by customer classification:

1. Industrial Customers - No more than \$200,000 per year
2. Commercial Customers - No more than \$200,000 per year
3. Residential Customers - No more than \$200,000 per year

*Indicates Change. **Indicates Addition.

MO.P.S.C. SCHEDULE NO. 6 1st Revised SHEET NO. 161.2

CANCELLING MO.P.S.C. SCHEDULE NO. 6 Original SHEET NO. 161.2

APPLYING TO MISSOURI SERVICE AREA

PILOTS, VARIANCES AND PROMOTIONAL PRACTICES

E. UNREGULATED COMPETITION WAIVERS AND OTHER VARIANCES (Cont'd.)

***UNREGULATED COMPETITION WAIVERS (Cont'd.)**

<u>Order Number</u>	<u>Area and/or Subdivision</u>
EAO 981	Country Lane Subdivision
EAO 982	Mallard Pointe Subdivision
EAO 983	9 Lot Subdivision - Hugh White
EAO 984	22 Lot Subdivision - Bill Reid
EAO 985	Northridge Estates
EA-90-250	14 Lot Subdivision - Larry Hays
EO-91-386	15 Lot Subdivision - Jane Flowers
EO-91-386	Porter South Subdivision
EAO 987	Village Green Subdivision
EAO 986	Rolling Meadows Subdivision
EAO 988	Westport Subdivision
EO-93-16	Scarborough Estates and Westport Subdivisions in Cole County, MO
EO-93-156	Bradford Court Subdivision
EO-93-166	Highway T Corridor as defined by metes and bounds in the Territorial Agreement between Company and Cuivre River Electric Cooperative dated October 30, 1992
EO-93-186	Royal Oaks Estates Subdivision
EO-93-266	Mid American Bank/Ken Otke
EO-95-27	SE Corner of Mo. Highways 92 and 33 in Kearney, Mo./Wayne Rickel
EO-96-431	Cedar Park Place Subdivision
EO-2002-1091	Competition Area as defined by metes and bounds in the Territorial Agreement between Company and Cuivre River Electric Cooperative dated May 23, 2002
EE-2013-0511	Markway Meadows Subdivision in Cole County
EE-2019-0395	Grantham Estates in St. Charles County

*Indicates Reissue

MO.P.S.C. SCHEDULE NO. 6 Original SHEET NO. 161.3

CANCELLING MO.P.S.C. SCHEDULE NO. _____ SHEET NO. _____

APPLYING TO MISSOURI SERVICE AREA

PILOTS, VARIANCES AND PROMOTIONAL PRACTICES

E. UNREGULATED COMPETITION WAIVERS AND OTHER VARIANCES (Cont'd.)

*OTHER VARIANCES

<u>Order Number</u>	<u>Project of Customer</u>
EO-89-7	Orchard House
EO-93-108	Council Apts. II (Delcrest)
EO-96-447	Laclede Groves Retirement Apts.
EO-97-58	Garden Villas South
EO-97-467	Garden Villas North
EO-98-6	Congregation of the Mission Midwest
EO-98-68	Pope John Paul II Apartments
EE-2000-465	Hylton Point II (NBA)
EE-2001-514	The Volunteers of America St. Louis Affordable Housing Corp. (14 th Street and Chouteau)
EE-2002-1118	Coronado Place
EE-2003-0365	Lindell Towers
EE-2004-0069	West Pine Apartments
EE-2004-0092	Parkview Apartments
EE-2004-0267	Brentmoor at Oaktree
EE-2004-0268	River's Edge Properties
EE-2005-0400	Vaughn Elderly Apartments
EE-2005-0486	Grand View Tower LLC
EE-2006-0124	Kingsbury Terrace Apartments

* Indicates Reissue.

Schedule MCB-D3
Page 4 of 4

DATE OF ISSUE _____ DATE EFFECTIVE _____

ISSUED BY Michael Moehn President St. Louis, Missouri
NAME OF OFFICER TITLE ADDRESS

