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Issue(s):	*Coal Inventory, LTIP, EPB, Income Taxes*
Witness:	*Matthew R. Young*
Sponsoring Party:	*MoPSC Staff*
Type of Exhibit:	*Surrebuttal/True-Up Direct Testimony*
Case No.:	*ER-2022-0337*
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MISSOURI PUBLIC SERVICE COMMISSION

FINANCIAL AND BUSINESS ANALYSIS DIVISION

AUDITING DEPARTMENT

SURREBUTTAL/TRUE-UP DIRECT TESTIMONY

OF

MATTHEW R. YOUNG

UNION ELECTRIC COMPANY,
d/b/a AMEREN MISSOURI

CASE NO. ER-2022-0337

Jefferson City, Missouri
March 2023

** Denotes Confidential Information **

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Q. Please state your name and business address.

A. My name is Matthew R. Young. My business address is 615 E. 13th Street, Kansas City, Missouri, 64105.

Q. Are you the same Matthew R. Young that filed direct and rebuttal testimonies in this docket?

A. Yes I am.

EXECUTIVE SUMMARY

Q. What is the purpose of your surrebuttal testimony?

A. I will respond to the rebuttal testimony of Andrew Meyer on the appropriate level of coal inventory to include in rate base. I will also respond to the rebuttal testimony of Kelly Hasenfratz regarding long term incentive compensation and Ameren Missouri's (sometimes referred to as "the Company") exceptional performance bonus costs. In addition, I will address the arguments of Mitchell Lansford and John S. Riley regarding several tax-related issues. Specifically I will discuss the recommendations for a tracker of Inflation Reduction Act tax impacts, corporate alternative minimum taxes, deferred tax assets and liabilities in rate base, tax benefits of impairments, a tracker for the tax effects of impairments, and other miscellaneous tax topics that were addressed in their rebuttal testimonies.

Q. Does this testimony include your true-up direct testimony?

A. Yes. In my true-up direct testimony, I will identify the adjustments I true-up to include data through December 31, 2022.

SURREBUTTAL TESTIMONY

Coal Inventory

Q. Please describe Ameren Missouri's recommendation on the amount of coal inventory to include in rate base.

A. In his direct testimony, Ameren Missouri's witness Meyer recommends calculating the coal inventory quantity (in tons) using a 13-month average of inventory as of September 30, 2021. Ameren Missouri recommends this approach in order to exclude the effects of railroad delivery challenges that led to an inventory shortage that was ongoing through the December 31, 2022 true-up period.[1]

Q. What is the Staff of the Missouri Public Service Commission's ("Staff") recommendation for coal inventory in its direct case?

A. Staff also recommends a 13-month average of coal inventory (in tons), but used the thirteen months ended June 30, 2022.

Q. What is the primary difference between the two recommendations?

A. As Mr. Meyer describes, Staff's average coal inventory reflects Ameren Missouri's difficulty maintaining coal inventory due to railroad underperformance. Ameren Missouri's rebuttal states that Staff's recommendation is far short of the inventory level that the

[1] Andrew Meyer direct; page 32.

Company needs to and intends to maintain during the period when rates set in this case will be in effect.[2]

Q. Is Ameren Missouri's actual coal inventory materially reduced?

A. Yes. Coal supply interruptions were material enough that Ameren Missouri requested revisions to its tariffs in Case No. EE-2022-0329. This case was filed so that Ameren Missouri's tariffed response to a severe coal shortage reflects the current economics underlying the provision of electricity.

Q. Has Ameren Missouri shown that the actual amount of coal inventory Ameren Missouri can receive will increase to desired levels in the near future?

A. No. Ameren Missouri has acknowledged that coal inventory shortfalls existed through the true-up date in this case. Also, Mr. Meyer's rebuttal testimony describes progress the railroad providers have made in resolving their issues, but progress is not the same as resolution. In the context of this case, railroad underperformance is an ongoing reality, and it is not appropriate to ignore it.

Q. If Ameren Missouri were to show improvement in railroad performance, would it be appropriate to adopt Ameren Missouri's position?

A. No. Coal inventory is a rate base item and generally represents the utility's investment in its operations at a particular point in time. The true-up period ordered by the Missouri Public Service Commission ("Commission") is December 31, 2022 and if a 13-month period ended September 30, 2021 were included, coal inventory would not be reflective of Ameren Missouri's investment at the true-up date. Such an inclusion would also infringe upon the matching principle used in ratemaking.

[2] Andrew Meyer rebuttal; page 11.

Q. What is the ratemaking matching principle?

A. While setting rates, the matching principle generally asserts that measuring cost components (e.g. rate base, revenues, expenses, cash working capital, capital structure, etc.) during the same measurement window will establish an appropriate relationship between the cost elements and provide a more accurate revenue requirement.

Q. How does Ameren Missouri's recommendation infringe upon the matching principle?

A. Ameren Missouri's recommendation to reflect the investment in coal inventory it wanted to make, and intends to make in the future, simply does not align with the myriad of other cost components included in the revenue requirement that are based on transactions through June 30, 2022. Ameren Missouri's recommendation will be further misaligned when all other cost components underlying the true-up revenue requirement will be measured at December 31, 2022.

Q. Is Staff's recommendation reflective of the matching principle?

A. Yes. Staff's recommendation reflects the economic reality underlying Ameren Missouri's coal inventory and honors the matching principle.

Q. Is coal inventory an item that will be trued-up?

A. Yes. I include coal inventory in my true-up direct testimony.

Long Term Incentive Compensation

Q. Please compare and contrast Staff's recommendation with Ameren Missouri's recommendation regarding the Long Term Incentive Compensation Plan ("LTIP").

A. Staff and Ameren Missouri agree that 70% of the Company's LTIP, specifically the cost of Performance Share Unit ("PSU") awards, should be assigned to shareholders.

PSUs awards are valued by measuring Ameren Missouri's Total Shareholder Return ("TSR") against the Company's peers. Assigning costs based on financial metrics to shareholders is consistent with Commission precedent.

Staff and Ameren disagree on the assignment of the LTIP's Restricted Share Units ("RSU") awards. In rebuttal testimony, Ameren Missouri witness Kelly Hasenfratz differentiates PSU and RSU awards by explaining RSUs do not have a financial benchmark but are awarded to Ameren Leadership Team ("ALT") members as long as they continue their employment throughout the vesting period. Ameren Missouri posits that RSUs encourage a stable workforce and a stable workforce is to the benefit of ratepayers; therefore ratepayers should be charged the cost of RSUs. Staff's position is that RSUs are stock awards and stock compensation aligns the employee's interest with the shareholder's interest; therefore the cost should be assigned to shareholders.

Q. Do you agree with Ameren Missouri that a stable workforce creates value for ratepayers?

A. Generally speaking, yes. Creating a stable workforce can reduce costs related to turnover and foster efficiency in management. Assuming that these goals materialize and costs are reduced, ratepayers receive an indirect benefit from employee longevity.

Q. Do you agree with Ameren Missouri's characterization that RSU awards align employee interests with only customers?[3]

A. No. RSU award's role in the alignment of employee interests with ratepayer benefits are indirect at best. RSU awards are more appropriately characterized as an alignment

[3] Hasenfratz rebuttal; page 3, line 21 through page 4, line 2.

of employee interests with shareholder interests that may create cost efficiencies that are theoretically passed to ratepayers.

Q. How do RSU awards align employee interests with shareholder interests?

A. There are at least three ways that RSU awards directly align employee interests with shareholders. First, RSU awards, and stock compensation in general, align employee and shareholder interests by ensuring the employee is also a shareholder. The simple award of Ameren stock to an employee creates an incentive for that employee to increase the price of the stock he or she will own. Increasing the price of Ameren stock also benefits the general body of shareholders, so employee/shareholder interests are aligned.

Second, ** [redacted] ** Maximizing stock price also benefits shareholders so employee/shareholder interests are aligned.

Third, if a stable workforce does reduce the cost of turnover and fosters efficiency as Ameren Missouri argues, it equally benefits shareholders. Staff notes that cost reductions achieved by RSU awards are enjoyed by shareholders until the regulatory lag is reset in a general rate case. For these three reasons, RSUs are consistent with the general intent of the 2022 LTIP, which is to ** [redacted] **

Q. Does Ameren Missouri's LTIP plan list an objective to ** [redacted] ? **

[4] Staff Data Request No.0022; 2022 LTIP plan document.

A. Yes, it does now. Although RSUs were added to the LTIP in 2018, the LTIP plan document did not include that objective until the 2022 plan year.

Q. If Ameren Missouri believes that RSUs are responsible for ALT employee retention, why would Ameren Missouri not offer RSU awards to all employees?

A. Ameren Missouri notes that its peers only offer restricted share awards at the leadership team level, so it would not be consistent with industry practice to provide awards to all employees.

Q. Are there possible reasons Ameren Missouri's shareholders would be concerned if RSU awards were offered to all employees?

A. It is probable that awarding shares of common stock to all employees would have a cumulative dilution of earnings, which would be an issue for shareholders. By limiting the transfer of Ameren Inc.'s treasury stock to a smaller number of ALT employees, Ameren Inc. softens the dilution of earnings per share and avoids the cost of issuing more shares of common stock.

Q, Would Staff support recovery of employee-retention payments if they were awarded in cash, as Ameren Missouri concludes?[5]

A. Under the current LTIP, RSU awards are a cash-free transaction. It would be inappropriate to provide a ratemaking recommendation for a hypothetical that does not exist in the current environment. If the payments were made in cash Staff would evaluate the appropriateness of the compensation before making a recommendation to the Commission. However, Staff infers from Ameren Missouri's explanation of its peer comparison that the Company would be alone in offering longevity incentives in cash.

[5] Hasenfratz rebuttal; page 11.

Q. Do you agree that 85% of Ameren Missouri's peers are granting time-based RSUs to employees based solely on continued employment?[6]

A. I have not reviewed the peer analysis that Ameren Missouri references but I have no reason to dispute it.

Q. Are you aware of other Missouri utilities that grant time-based RSUs to employees based solely on continued employment?

A. No, I'm not aware of any major Missouri regulated utility (electric, gas, or water) that awards compensation similar to Ameren Missouri's RSUs.

Q. Has Ameren Missouri had success in other jurisdictions with regulated recovery of RSUs?

A. Yes. Ameren Witness Hasenfratz references several dockets before the Illinois Commerce Commission ("ICC") that approve recovery of Ameren Illinois' share of RSUs.[7]

Q. Should the Commission be persuaded by decisions of the ICC?

A. No. The ratemaking approach of the ICC is simply not comparable to Missouri's ratemaking approach. Examples of where the ICC's approach departs from Missouri's approach are the ICC's use of formula rates and inclusion of Construction Work in Progress ("CWIP") in rate base. Also, the incentive compensation that is to be included or excluded from rates are directed by Illinois statutes. This is contrary to Missouri's ratemaking practice of exercising the Commission's discretion to set just and reasonable rates.

Q. Has the Commission had the opportunity to provide its own guidance on equity-based incentive compensation?

[6] Hasenfratz rebuttal; page 5.
[7] Hasenfratz rebuttal; pages 10 and 11.

A. Yes. The Commission's Report and Order in Kansas City Power & Light Company's ("KCPL") rate case in File No. ER-2007-0291 is consistent with the Commission's historic treatment of equity based compensation. In the Order, the Commission stated:

> KCPL has the right to tie compensation to [earnings per share]. However, because maximizing [earnings per share] could compromise service to ratepayers, such as by reducing maintenance, the ratepayers should not have to bear that expense. What is more, because KCPL is owned by Great Plains Energy, Inc., and because GPE has an unregulated asset, Strategic Energy L.L.C., KCPL could achieve a high [earnings per share] by ignoring its Missouri ratepayers in favor of devoting its resources to Strategic Energy. Even KCPL admits it is hard to prove a relationship between earnings per share and customer benefits. Nevertheless, if the method KCPL chooses to compensate employees shows no tangible benefit to ratepayers, then those costs should be borne by shareholders, and not included in the cost of service.[8]

Similarly, by compensating employees with company stock, Ameren Missouri's RSUs are incenting employees to increase the price of stock, which indirectly creates an environment where service to ratepayers could be compromised.

Q. Has the Commission issued a decision regarding stock compensation more recently than the KCPL decision above?

A. Yes. In Case Nos. GR-2017-0215 and GR-2017-0216, the Commission explained:

> The Commission has traditionally not allowed earnings based or **equity based compensation** to be recovered in rates because such incentives are primarily for the benefit of shareholders and not for the benefit of the ratepayers. As the Commission has said in the past, incentivizing employees to improve the company's bottom line aligns the interests with the shareholders and not with the ratepayers. Aligning interest in this way can negatively affect ratepayers.[9] [Emphasis added.]

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[8] Report and Order, Case No. ER-2007-0291, dated Dec. 6, 2007, pg. 49-50 (internal footnotes omitted). See also Report and Order, Case No. ER-2006-0314, dated Dec. 21, 2006, pg 58.

[9] Amended Report and Order, Case Nos. GR-2017-0215 & GR-2017-0216, dated Mar. 7, 2018, page 122 (emphasis added), aff'd on other grounds in Spire Missouri, Inc. v. Public Service Com'n, 2019 WL 1246323, Mar. 15, 2019.

Q. Does Ameren Missouri present an alternative recommendation for the recovery of RSUs?

A. Yes. Page 9 of Ameren Missouri's witness Hasenfratz's rebuttal testimony reads:

> If the Commission is truly concerned with the mere presence of stock in the plan or share price fluctuations during the term of the award, an alternative that at least partially recognizes the benefits customers receive from RSUs would be to allow recovery of the cost of its RSUs at the grant date of the award. This is the value of the award as if it were cash on the date the award is granted. If the Commission were to order it so, in this case, the Company would include $2,753,821 (as compared to the Company's position of $3,620,163) of long-term incentive compensation in its revenue requirement used to set rates in this case.

Q. What is your response?

A. In its alternative, Ameren Missouri suggests treating RSU awards as if they were paid in cash which highlights the fact that these are not cash transactions. To explain further, Ameren Missouri is asking the Commission to collect cash from customers for a cost that does not directly affect Ameren Missouri's cash flow. Instead, employees receive RSU common shares from the Company's treasury stock and Ameren Missouri is requesting recovery of the accounting cost as opposed to a cash-based transaction. To charge ratepayers as if RSUs were cash awards does not reflect the economic reality and this hypothetical alternative should be rejected by the Commission.

Staff is also concerned with the nearly $1 million difference between the accrued costs and the actual cost of grants. Ameren Missouri's recommendation of cost recovery appears to be based on estimated (accrual) RSUs instead of actual awards made in the test period.

Q. Are there other ratemaking factors that the Commission should acknowledge in its decision on RSUs?

A. Yes. RSU awards generate tax benefits for Ameren Inc. If the Commission orders the inclusion or exclusion of RSU costs, it should also order a corresponding inclusion or exclusion of income tax benefits in Ameren Missouri's cost of service.

Exceptional Performance Bonus

Q. What is Staff's recommendation for the cost of Exceptional Performance Bonuses ("EPB")?

A. In its direct case, Staff recommended averaging the EPB payouts made during the prior three years of 2019 through 2021. Staff further stated that it would examine the 2022 payment when known to see if a true-up of the cost is appropriate.

Q. How did Ameren Missouri respond to Staff's recommendation?

A. Ameren Missouri believes there is no logical rational for normalizing EPB expense, since it is based on payroll costs which Staff did not normalize. Ameren Missouri explains that the EPB budget is established as a percentage of payroll at the beginning of each year and concludes that a three year normalization does not allow for appropriate recovery of the cost.[10]

Q. Why is a normalization appropriate in this instance?

A. EPB awards differ from the majority of Ameren Missouri's expenses as most other costs are out of management's direct control to some degree. However, Ameren Missouri

[10] Hasenfratz rebuttal; page 12.

(and affiliates)[11] is absolutely in control of the size and quantity of awards approved under its EPB program. As Ameren Missouri explains, the budget for the EPB program is set by Ameren Missouri at the beginning of every year.

Q. Does Ameren Missouri control the percentage applied to payroll to set the EPB budget?[12]

A. Yes. Staff notes that the percentage applied to payroll to set the EPB budget has changed twice since 2016.

Q. Is it correct that since 2016, the total EPB budget has increased annually?

A. Yes. Since 2016, the EPB budget established by Ameren Missouri has increased 136%.

Q. Do you agree with Ameren Missouri that a normalization isn't appropriate because it has increased the EPB budget annually?

A. No.

Q. Why not?

A. Staff's recommendation is that rate recovery should be based on the cash awards, not the budget. What Ameren Missouri's response lacks is the differentiation of the EPB budget and cash payouts. Just because Ameren Missouri's leadership has increased the budget annually, it isn't a logical conclusion that the entire budget is spent annually.

Q. Since 2016, how much of the EPB budget has been used?

[11] In addition to its own EPBs, Ameren Missouri is assigned a portion of the cost of Ameren Services' EPB. For the sake of clarity, this testimony does not differentiate between the two EPB programs and all analyses represent consolidated amounts.
[12] Staff Data Request No. 0219.1.

A. The annual amount of EPB budget used has fluctuated. Below is the consolidated annual EPB budget set for Ameren Services and Ameren Missouri employees.

Combined Ameren Services and Ameren Missouri EPB Budget 2016 - Current			
Year	**EPB Budget**	**EPB Awards**	**Budget Utilized**
2016	$1,002,200	$770,375	77%
2017	$1,629,100	$1,167,185	72%
2018	$1,746,900	$1,250,750	72%
2019	$1,829,000	$1,500,596	82%
2020	$2,075,000	$1,993,269	96%
2021	$2,286,000	$2,212,628	97%
2022	$2,361,700	$1,915,934	81%

Source: Staff Data Request No. 0220.

Q. Referring to the above table, can you explain what happened in 2022?

A. Yes. As the table shows, the EPB budget utilized in 2022 dropped significantly and explains how the amount awarded is below the prior year, although Ameren increased the budget for EPB.

Q. Now that the 2022 EPB payout is known and measurable, does Staff intend to true-up this adjustment?

A. No. Now that the 2022 EPB payout is known, Staff notes that its 2019-2021 average payout is nearly identical to the 2022 payout. Since Staff's normalized amount matches the most recent historical amount, the actual experience of EPB costs supports the normalization approach to ratemaking for this cost.

Q. What is Ameren Missouri's recommendation?

A. Ameren Missouri included the test year cost of the EPB program in its revenue requirement. This annual cost is based on the twelve months ended March 31, 2022 and is eight percent higher than the last-known 2022 payout.

Income Taxes

Corporate Alternative Minimum Tax

Q. Have you read the pre-filed rebuttal testimonies of Public Counsel's witness John S. Riley and Ameren Missouri's witness Mitchell Lansford regarding the Corporate Alternative Minimum Tax ("CMT")?

A. Yes. There appears to be some confusion surrounding the CMT and Staff's recommendation regarding the CMT.

Q. What portion of Public Counsel's CMT-related rebuttal testimony would you like to address?

A. On page four of Mr. Riley's rebuttal testimony, he indicates that CMT will be built into the revenue requirement. Mr. Riley also believes that if a tax liability is flowed through the cost of service, a deferral of the tax is not appropriate.

Q. Are Mr. Riley's statements accurate?

A. Not entirely. While I generally agree that deductions and credits that are flowed through to ratepayers should not receive rate base treatment, that approach does not apply to the CMT in the current case. The CMT is a component of the recent Inflation Reduction Act ("IRA") and became effective on January 1, 2023. As such, the CMT has not been built into any of Ameren Missouri's previous revenue requirements. Further, the applicability of future CMTs to Ameren Missouri's tax liability is unknown. For this reason, Staff and Ameren Missouri have elected to not recognize any amount for CMTs in its recommended income tax expense.

Q. If it was known that Ameren Missouri would be responsible for CMT payments, is it necessary to include the cost as a flow-through item in the ratemaking income tax expense?

A. No, it is not necessary. Because of the way the CMT is structured by the IRA, CMT is not embedded in the calculation of ordinary income taxes. Instead, CMT tax liabilities exist alongside ordinary tax liabilities and are incurred on financial income instead of the taxable income produced on the ordinary tax forms. Staff recommends normalizing CMT payments due to the unique nature of how CMTs are incurred.

Q. Are CMT payments temporary in nature?

A. Yes. If Ameren Missouri would be required to make a CMT payment, it will be able to use the CMT payment to reduce its tax liability in the future.

Q. Does this present any challenges for flow-through ratemaking?

A. Yes. If CMT payments were charged to ratepayers in current income tax expense, ratepayers would be entitled to a reduction of income tax expense when the tax liability is reduced in the future. Regulatory lag may inhibit accurate cost recognition in rates.

Q. Does Staff have a recommended ratemaking treatment for CMT payments?

A. No. As of the true-up date in this case, CMTs are future costs. Staff recommends waiting until the IRS has fully issued guidance related to CMT liabilities so that Ameren Missouri may more accurately determine its liability. Any ongoing CMT liabilities can be addressed in Ameren Missouri's next rate case.

Q. What portion of Ameren Missouri's CMT-related rebuttal testimony would you like to address?

A. On page 26 of his rebuttal testimony, Mr. Lansford characterizes Staff's position on CMT payments. Mr. Lansford asserts that Staff has claimed that no CMT cost exists.

Q. Did Staff claim that CMT payments are without costs?

A. No. After reviewing my direct testimony, I cannot find support for Mr. Lansford's statement. The only Staff recommendation regarding future CMT payments is related to the IRA tracker, which is addressed below.

Q. You mentioned earlier that Staff did not include a cost for CMT payments in current income tax expense. How does this compare to Ameren Missouri's recommendation?

A. Consistent with Staff, Ameren Missouri also does not recommend including an amount in the current revenue requirement for the costs of the IRA, which includes CMT payments.[13]

Inflation Reduction Act Tracker

Q. Please describe Staff and Ameren Missouri's recommendations for an IRA tracker.

A. Ameren Missouri's witness Mitchell Lansford filed supplemental direct testimony outlining a recommendation to establish a tracker to capture the IRA costs incurred and the IRA benefits realized in between rate cases. Staff's direct case also recommended a tracker, although Staff recommends tracking fewer items than Ameren Missouri.

Q. Is there any confusion about Staff's recommendation regarding how to track the Production Tax Credit components of the IRA?

A. Possibly. Staff's direct testimony recommends tracking PTC's accrued on Ameren's books and further comparing the accrual to the actual PTC generated. For clarity,

[13] Lansford supplement direct, page 13.

Staff intended to recommend including the full amount of PTCs generated in the tracker, without recognition of the inability to use the credit (i.e. the PTC carryforward). The confusion may have been on Staff's part by assuming the PTC accrued on the books would be for the full tax benefit.

Q. What is Public Counsel's position on an IRA tracker?

A. Public Counsel's witness Mr. Riley's rebuttal testimony explained it is generally supportive of an IRA tracker although it has reservations regarding the CMT.

Q. What is Ameren Missouri's recommendation regarding tracking CMT tax liabilities?

A. Ameren Missouri recommends multiplying the monthly balance of any Deferred Tax Asset ("DTA") created by CMT payments by the full Weighted Average Cost of Capital ("WACC") and including the CMT payments with carrying costs in the overall balance of the IRA tracker.

Q. How is this different than Staff's recommended IRA tracker?

A. The primary difference is the application of Ameren Missouri's WACC to the CMT asset. As noted in this testimony and Staff's direct testimony, Staff and Ameren Missouri do not recommend including a cost of CMT payments in the current revenue requirement. Also, Staff notes that Ameren Missouri's tax accounting will already fully capture CMT payments as a deferred tax asset on its books in between rate cases, so authorization to defer CMT payments into a regulatory asset is redundant. The practical difference between Ameren Missouri and Staff is that Ameren Missouri's recommendation would inflate deferred CMT payments for carrying costs while Staff's recommendation would not.

Q. What are carrying costs?

A. Carrying costs are generally added to deferred costs in order to compensate shareholders for the use of their capital until the transaction is reflected in base rates.

Q. Is it appropriate and necessary to add carrying costs to CMT payments?

A. No. Adding carrying costs to CMT payments would be inconsistent and unnecessary. Staff notes that Ameren Missouri's recommendation suggests applying the WACC to IRA components that represent a cost to the Company. Ameren Missouri does not suggest adding carrying costs for deferred tax benefits allowed by the IRA. Historically, carrying costs have not been applied to the deferred tax benefits that are retained by Ameren Missouri and are not flowed-through to ratepayers (e.g. accelerated depreciation).

Q. Do you agree with Ameren Missouri's statement that deferred tax assets arising from CMT payments should be included in the Company's rate base?[14]

A. Since CMT payments are a future cost that may not even materialize, Staff finds it is premature to decide the rate base treatment of CMT DTAs.

Q. Would excluding CMT payments from the IRA tracker prevent the inclusion of CMT DTAs in future rate cases?

A. No. As I mentioned, Ameren Missouri's existing tax accounting methodologies will ensure CMT payments made in between rate cases are recorded as a DTA. The full amount of DTAs will be available for rate base consideration in Ameren Missouri's next rate case along with all other relevant factors.

Q. Ameren Missouri's testimony also compares CMT DTAs to Deferred Tax Liabilities ("DTL"), such as those caused by accelerated depreciation. Can you summarize

[14] Lansford rebuttal; page 26.

Ameren Missouri's testimony?

A. Yes. Ameren Missouri frames Staff's position as a recommendation that CMT payments have no cost since they will reverse over time. On page 27 of Mr. Lansford's rebuttal testimony, he argues that Staff's position on CMT DTAs is inconsistent since Staff supports reducing rate base by Ameren Missouri's Accumulated Deferred Income Tax ("ADIT") liability, especially the ADIT caused by accelerated depreciation. Mr. Lansford illustrates the alleged inconsistency by saying that if Staff's logic on CMT DTAs were consistently applied, rate base should not be reduced for ADIT since the tax difference is temporary.

Q. How do you respond?

A. As I summarized earlier, Ameren Missouri is not accurately representing Staff's recommendation on CMT DTAs. Staff recommends excluding CMT payments from a tracker simply because doing so is redundant. Later in this testimony I will discuss the nuances of appropriate rate base treatment of deferred tax deductions and credits but the ADIT rate base offset should not be conflated with the exclusion of CMT payments from the IRA tracker.

Q. Are there any other differences between Staff and Ameren Missouri's IRA tracker recommendations?

A. Yes. Staff recommends including in the IRA tracker the full amount of Production Tax Credits ("PTC") without recognition of the balance of PTCs that Ameren Missouri is unable to "use". Ameren Missouri recommends tracking the PTCs it is able to use as a regulatory liability and add the balance of PTCs that it was unable to use (aka PTC Carryforward) as a regulatory asset. Ameren Missouri further recommends adding the full WACC carrying costs as applied to the outstanding monthly balance of PTC carryforward.

Q. Why does Staff recommend exclusion of the PTC carryforward balance?

A. Similar to CMT payments, PTCs earned but not used will be recorded as a deferred tax asset regardless, so inclusion in the IRA tracker is redundant. Further, Ameren Missouri's recommendation to increase rate base by the amount of PTC carryforward is inappropriate. Rate base represents the investment the utility has put into its business but the PTC carryforward balance is not an investment. Stated again, Ameren Missouri does not make an active investment in production tax credits. The PTC carryforward balance is not a shareholder cost that deserves a return but is more of a coupon for future tax savings.

Q. Does Staff support the inflating unused PTCs for carrying costs?

A. No. For the much the same reasons Staff opposes marking up a CMT DTA, Staff opposes carrying costs on PTC DTAs.

Q. To be clear, is it your understanding that Ameren Missouri recommends to increase the value of its investment in rate base when it is unable to fully utilize a PTC tax benefit?

A. Yes, with added carrying costs. Ameren Missouri believes that if a PTC is flowed to ratepayers at a faster rate than the Company can utilize the tax benefits, shareholders are entitled to compensation for the monies ratepayers have received but shareholders have not. Ameren Missouri supports its argument by comparing unused PTCs to the ADIT that compensates ratepayers for tax benefits that the customers have not yet realized.

Q. Are PTC carryforwards comparable to the balance of ADIT?

A. No. PTC carryforwards track "actual taxes paid" while ADIT is not. ADIT in rate base is sourced from Ameren Missouri's books to use as a proxy for the prepayment of income taxes by ratepayers, but it is only a proxy. The ADIT in rate base does not represent a dollar-for-dollar tracker of the taxes Ameren Missouri has received from customers versus what the Company has paid to taxing authorities. In other words, the income tax expense, and all of the underlying components, charged to ratepayers is normalized and/or annualized but not intended to lead to an exact rate base amount of excess income taxes that ratepayers have paid.

Similarly, tax credits (including PTCs) are flowed through to ratepayers on a normalized and/or annualized basis but there is not an intent to ensure ratepayers receive every dollar of tax credits that Ameren Missouri has claimed. What Ameren Missouri is recommending in the IRA tracker is to treat unused PTCs as a cost to the Company and increase rates if Ameren Missouri does not have the tax appetite to use them. If one were to use Ameren Missouri's "actual taxes paid" approach for all income tax components, it would prove problematic for Ameren Missouri and it ratepayers.

Q. Are there important differences between tax liabilities caused by accelerated depreciation and tax assets caused by CMT payments and unused PTCs?

A. Yes. An overwhelming majority (if not all) of Ameren Missouri's deferred tax liabilities reflected in rate base are caused by tax deductions (such as accelerated depreciation) while production tax credits are exactly that; tax credits. These two tax benefits affect the overall tax liability differently and are not "inextricably linked" as Ameren Missouri testifies. Further, the CMT tax liability is calculated outside of ordinary income tax payable. It is hard to understand Ameren Missouri's attempt to establish a codependency between a) tax assets caused by credits, b) alternative taxes and, c) the ADIT liability that reduces rate base.

Later in this testimony I will provide more discussion on the nuances of deferred tax deductions and tax credits and how those nuances influence inclusion or exclusion in rate base.

Q. Are there any other differences between Staff and Ameren Missouri's recommendation for an IRA tracker?

A. Yes. The last remaining difference between Staff and Ameren Missouri's IRA tracker recommendations is regarding Investment Tax Credits ("ITC") authorized by the IRA. Staff's direct case did not recommend including ITCs in the tracker while Ameren Missouri did.

Q. What's the difference between an ITC and a PTC?

A. The value of a PTC is based on how many megawatt hours the underlying asset is able to generate. The more the facility generates, the greater the tax benefit. The value of an ITC is based on a percentage of the cost of the underlying asset. The more the facility costs, the greater the tax benefit. When a qualifying facility is placed into service, the utility makes an irrevocable decision based on which tax credit is the most beneficial.

Q. Why did Staff recommend excluding ITCs from the IRA tracker?

A. Staff recommended exclusion of ITCs from the IRA tracker for simplicity of tracking the tax benefits. Due to the federal government's normalization requirements, ITC tax benefits flow-back to customers is spread out over the life of the underlying asset and cannot be provided to customers faster than Ameren Missouri can use them. Due to a lengthy flow-back period, tracking ITC benefits is not as imperative from a ratepayer perspective.

Q. Has Staff's position evolved since it filed its direct case?

A. Yes. Staff has learned that the IRA allows utilities to opt-out of the IRS' normalization requirements. If Ameren Missouri would elect this opt-out it would not be restricted to a lengthy flow-back period, so Staff no longer recommends excluding ITC credits from the IRA tracker.

Q. What is Staff's revised position on ITC credits claimed under the IRA?

A. Staff recommends including ITC credits in the IRA tracker similar to its recommended treatment of PTCs. To summarize, Staff recommends including the full ITC generated (not reduced by the amount of credit that was not used), excluding any ITC carryforward DTA from the tracker, and comparing the accrued tax benefit to the actual tax benefit when known.

Q. If Ameren Missouri elects an ITC and subsequently sells the tax benefits (as allowed by the IRA), how will that effect the IRA tracker under Staff's recommendation?

A. Staff recommends tracking the consideration received for IRA benefits, which includes the consideration received from the sale of ITCs. In other words, if ITCs are sold the cash (or other items received in the transaction) would be available for consideration in future cases.

Current Federal Tax Credit DTAs in Rate Base

Q. What is the issue of the current federal tax credit deferred tax assets in rate base?

A. Ameren Missouri's direct case embedded the carryforward balances of unused federal tax credits in its rate base ADIT amount. These carryforward balances are DTAs and increase total rate base in the cost of service. Staff excluded these DTAs from ADIT in its case resulting in a lower rate base compared to Ameren Missouri's position.

Q. Are these tax credit carryforward DTAs related to the Inflation Reduction Act?

A. No. These tax credit carryforward DTAs were accumulated through June 30, 2022 and are not a result of the IRA.

Q. How did Ameren Missouri respond to Staff's recommendation?

A. Beginning on page 32 of Mr. Lansford's rebuttal testimony, he cites Staff's direct testimony that explains tax deductions and Staff's direct testimony on the IRA tracker in order to frame Staff's recommendation on the tax credit carryforward DTAs as a contradiction. However, Ameren Missouri's response is a conflation of three different topics and Staff's recommendations are not at odds with each other.

Q. What are the differences between the IRA tracker and federal tax credit carry forward issues?

A. The issue at hand is the balance of federal tax credit carryforwards that exist at June 30, 2022. The tax credits that lead to the carryforward balance have existed in tax law for some time and have been routinely addressed in Ameren Missouri's cost of service. On the other hand, the IRA tracker addresses the passage of a new tax law that will have a substantial impact to Ameren Missouri after the true-up date in this case. Further, Staff's recommendation does not include a position on the rate base treatment of tracked IRA effects.

Deciding the rate base treatment of routine tax credits recorded at June 30, 2022 by looking to how new, volatile, and substantial tax credits will be tracked in the future is like using an algebra textbook to solve a geometry problem. The IRA tracker and the June 30, 2022 tax credit carryforwards are both related to taxes but are discrete issues.

Q. Does the regulatory treatment of Ameren Missouri's tax deductions that lead to ADIT provide a basis for the regulatory treatment of Ameren Missouri's unused federal tax credits?

A. No. The economic reality underlying Ameren Missouri's tax deductions is quite different from the economics of tax credits Ameren Missouri claims.

Q. Please describe the economics of a tax deduction.

A. Much like how book expenses reduce a firm's net income, tax deductions are costs that reduce a taxpayer's taxable income. When the amount of a book expense and a tax deduction are different, a book/tax difference is created. Further, when the book/tax difference is temporary in nature it is referred to as a temporary tax timing difference. The tax deduction that is the most illustrative example is depreciation. When book depreciation is recorded under the straight-line method but the tax depreciation is recorded with accelerated depreciation, a tax timing difference is created and recorded on the books as ADIT.

Regarding the accelerated depreciation tax deduction, the intent of the federal government is to allow taxpayers to defer the tax liability from the current period to future periods in order to provide capital to the taxpayer. The depreciation deduction, along with all other tax deduction built into the Internal Revenue Code that allow the deferral of a tax liability to future periods, is characterized as an interest free loan from the federal government. When the taxpayer happens to be a regulated utility, the utility also collects a prepayment of income taxes from customers by normalizing (not flowing-through) the tax deduction. The ratepayer's prepayment of income taxes due to normalized tax deductions is represented by an ADIT offset to rate base.

Q. How is the economics of a tax deduction different from the economics of a tax credit?

A. While a tax deduction represents an interest free loan from the federal government that will be repaid in the future, a tax credit is an annual subsidy awarded to taxpayers that respond to certain incentives. Like deductions, tax credits reduce a firm's tax liability but unlike deductions, credits are a permanent forgiveness, instead of a temporary deferral, of income taxes. An example tax credit that is claimed by Ameren Missouri is for Research and Development ("R&D") activities. When Ameren Missouri spends a certain amount on R&D activities it is entitled to claim the R&D tax credit subsidy. Generally, when ratepayers pay the costs that generate a tax credit, they are also entitled to the tax benefit. However, the act of passing the tax credit to ratepayers does not cause a prepayment or deferral of income. In other words, tax credits do not represent a loan to or from Ameren Missouri, ratepayers, or the federal government. This attribute is <u>crucial</u> to deciding if the balance of deferred tax credit carryforwards should offset ADIT in rate base.

Q. How did Ameren Missouri's federal tax carryforward balance accumulate?

A. Over time the federal government has allowed, and Ameren Missouri has claimed, more tax benefits than it was able to use. The unused balance accumulated as a carryforward.

Q. What does it mean to "use" a tax benefit?

A. Generally, taxpayers are allowed to claim tax deductions and tax credits until the tax payable equals zero. Although the taxpayer might be eligible to claim more tax benefits, it cannot continue to reduce the tax payable beyond $0 so some benefits are not able to be used. Unused tax benefits are generally allowed to be carried forward to offset future taxable income. Below is a simple illustration of how deferred tax assets are generated.

	Taxable Revenue	
Less:	(Tax Depreciation)	
Less:	(Other Deductions)	
Equals:	Taxable Income	If taxable income <= $0, NOL & tax credit DTAs generated
Times:	Tax Rate	
Equals:	Tax Liability	
Less:	(Tax Credits)	
Equals:	Tax Payable	If tax payable <= $0, tax credit DTA generated

Q. What is Ameren Missouri's position on including the federal tax credit carryforward deferred tax asset in rate base?

A. Ameren Missouri recommends increasing rate base to recognize it has not been able to fully take advantage of subsidies allowed by the federal government. It believes, "[t]he Company must be compensated for providing a benefit to customers well before that benefit is obtained by the Company to reduce income tax liabilities."[15]

Q. Is there an underlying issue with Ameren Missouri's position?

A. Yes, there are at least two. First, it appears that although income tax components, including tax credits, are annualized and/or normalized in the cost of service, Ameren Missouri feels entitled to rate base recognition of the actual difference between tax credits in rates and actual tax credits used.[16] However, measuring the difference between tax credits in rates and actual tax credits used would be a tracker of federal tax credits which has not been authorized. Tax credits are flowed to ratepayers because they pay the underlying costs that generated the credit but ratepayers should not pay a rate of return because the federal government gave Ameren Missouri too many subsidies.

Second, tax credits are not a temporary tax timing difference because there will be no future tax payable for claiming current tax credits. In other words, tax credits have no relationship to cost-free loans Ameren Missouri receives from the federal government and ratepayers. The Company's recommendation is to increase rates in the present because it is allowed to hold tax benefits until they can be used in the future. Ameren Missouri's position is not an equitable balance of stakeholder's interests.

[15] Lansford rebuttal, page 33.
[16] Ameren Missouri records the difference as a deferred tax asset for tax accounting purposes.

Impairment Tax Deduction

Q. Please describe Public Counsel's testimony on the impairment tax deduction.

A. In the rebuttal testimony of John S. Riley, he recommends including a deduction for impairments in the calculation of Ameren Missouri's income taxes. Generally, impairments occur when an asset is retired, disposed, or impaired before it has been fully depreciated.

Q. What is Staff's position?

A. Staff is not opposing or supporting Public Counsel's recommendation at this time.

Q. Would including an impairment deduction be consistent with Staff's approach to income tax expense?

A. If Public Counsel's claims that ratepayers are charged for the costs underlying the impairment deduction, and the deduction is a permanent timing difference is correct,[17] including the impairment tax deduction in the cost of service would be consistent with Staff's approach to income taxes.

Q. How does the early disposition of an asset affect the cost of service?

A. It depends on if the asset is a retirement unit (specific asset) or a mass asset. If a retirement unit is disposed of, the unit-specific plant and associated reserve will be removed from rate base. Assuming early disposition, total rate base will decrease and depreciation expense will be lower. However, a substantial amount of a utility's rate base is comprised of mass assets.

When a mass asset is retired, plant and reserve are reduced in equal amounts, leaving net rate base unchanged (depreciation expense will still be reduced). A consequence of using

[17] Riley rebuttal, page 6.

mass asset accounting is that ratepayers are responsible for a full return of and return on mass asset additions regardless of the timing of the retirement. In other words, retirement of a mass asset does not have an effect on the return on rate base and the net operating revenue income requirement.

Q. Do you agree with Public Counsel that the impairment is a permanent tax deduction?

A. Staff is not persuaded that the tax deduction is a permanent book/tax difference. If an asset is retired at the end of its book life, it would have generated a depreciation tax deduction until its original book cost was fully depreciated. If an asset is disposed of instead, it would be fair to characterize the impairment as an immediate recognition of the undepreciated original cost. For tax purposes, the only difference would be how quickly the original cost was reflected as a tax deduction, but that doesn't necessarily mean the book/tax timing difference does not unwind over the remaining book life of a mass asset. Staff finds the impairment deduction is comparable to the accelerated depreciation deduction, which is normalized in the cost of service.

Q. If the impairment deduction is normalized (not flowed-through) for ratemaking, do ratepayers benefit from the tax impairment?

A. Yes, they should. Similar to the accelerated depreciation tax benefits, book/tax differences caused by the impairment deduction should be reflected in the ADIT reduction to rate base. If an impairment causes the early recognition of an asset's original cost on the tax return, the book/tax difference driving ADIT in rate base should increase to the benefit of ratepayers.

Q. How will Staff respond to this issue going forward?

A. Staff will observe Ameren Missouri's response in surrebuttal testimony and will reserve any recommendations during the remainder of this proceeding.

Impairment Tax Deduction Tracker

Q. Is the inclusion of the impairment tax deduction Public Counsel's only recommendation for the ratemaking treatment of impairments?

A. No. Public Counsel also recommends establishing a tracker to capture future impairment deductions.[18]

Q. Does Staff agree that an impairment deduction tracker should be established?

A. No, not in the context presented by Public Counsel. Staff's general tracker policy is to consider trackers when a cost, or events that drive costs, are one of three things; 1) significantly volatile making it difficult to accurately reflect the cost in rates, 2) a cost is new to a utility's operations making prediction difficult and, 3) a cost is incurred due to an action of the Commission.

Public Counsel recommends a tracker due to impairments in recent years and notes that an early retirement of the Rush Island power plants may cause a large impairment. However, historical impairments do not identify with any of the conditions listed in the prior paragraph. The effect on income taxes of historical impairments has not been shown to be volatile, new, or caused by the Commission. On the other hand, a tracker may be appropriate when the underlying event fits the above criteria. It could be argued that the retirement of a coal plant causes a volatile impairment that is new to Ameren Missouri and driven by government policies. However, such a recognition of the event should be scoped to include all costs and

[18] Riley rebuttal, page 6.

benefits realized by the event. Public Counsel's tracker recommendation singles out a particular benefit of an impairment (early retirement) so it is not appropriate.

Miscellaneous Income Tax Matters

Q. Are there other portions of Ameren Missouri's rebuttal testimony that you need to address?

A. Yes. There are two remaining topics. First, Ameren Missouri's rebuttal testimony notes that Staff's accounting schedules reflect the St. Louis City earnings tax credit in the calculation of federal, state, and city taxes.[19] As the Company notes, the St. Louis tax credit is only applicable to city income taxes.

Q. Why did Staff also include the city tax credit in the calculation of federal and state taxes?

A. Staff included the St. Louis City tax credit in the calculation of federal and state income taxes to correct a formula reference error in Staff's accounting schedules. While Staff's income tax schedule reflects the deductibility of city income taxes for federal and state income tax expense, it does not calculate the "post-credit" city income tax. For example, line number 23 of Staff's accounting schedule 11 (Income Tax Expense) deducts the city income tax for federal income tax purposes. However, the value on line 23 does not match the city income tax expense calculated on line 50. Adding the city tax credit to the federal calculations corrects the error. Staff has discussed the error with Ameren Missouri and expects this issue to be resolved.

Q. In your direct testimony you stated that you were waiting for Ameren Missouri's response to Staff data request No. 0168.2 before offsetting ADIT with deferred tax assets related

[19] Lansford rebuttal, page 33.

to Ameren Missouri's reserve for obsolete inventory and contingent liabilities. Did Ameren Missouri provide the data request response?

A. Yes. Ameren Missouri answered data request No. 0168.2, which was responsive to Staff's concerns with the contingent liabilities deferred tax asset. Although Staff could seek further clarification of the DTA related to obsolete inventory, the effects on rates is not substantial when compared to ADIT as a whole. Staff will include the obsolete inventory and contingent liabilities DTAs in its true-up revenue requirement.

TRUE-UP DIRECT TESTIMONY

Q. Have you updated any of Staff's adjustments using data through December 31, 2022?

A. Yes. In Staff's true-up revenue requirement I sponsor the true-up of adjustments for;

- plant and reserve
- ADIT
- fuel inventory
- Sioux regulatory asset
- income tax expense
- excess deferred income tax tracker
- capitalized depreciation
- fuel prices
- fuel expense, including fuel additives
- amortization of general plant
- extended amortizations

Q. Will any of these true-up items be significant?

A. Yes. The true-up of plant and reserve, and the corresponding depreciation and amortization expense, had a significant revenue requirement impact. Excluding the plant and reserve changes caused by Meramec's retirement, Ameren Missouri placed over $850 million of plant into service in between June 30, 2022 and December 31, 2022. A majority of the plant increases were in the categories of transmission and distribution plant ($513 million) but there were also substantial increases in intangible ($81 million) and general ($169 million) plant in service. After accounting for the increase in reserve, plant additions increased Ameren Missouri's rate base by over $600 million during the last six months of 2022.

Q. Are any other items that you sponsor reflected in rate base?

A. Yes. ADIT, fuel inventory, the Sioux regulatory asset, and the rate base portion of extended amortizations are reflected in rate base. Staff updated its adjustments to include the balances at December 31, 2022 in the cost of service.

Q. Did you true-up any expense items?

A. Yes. I trued-up the expense adjustments for income tax expense, excess deferred income tax tracker, capitalized depreciation, fuel prices, fuel expense (including fuel additives), amortization of general plant, and the extended amortizations expense to reflect costs through December 31, 2022.

Q. Does this conclude your Surrebuttal and True-Up Direct Testimony?

A. Yes it does.

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-2022-0337

AFFIDAVIT OF MATTHEW R. YOUNG

STATE OF MISSOURI)
) ss.
COUNTY OF JACKSON)

COMES NOW MATTHEW R. YOUNG and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing *Surrebuttal/True-Up Direct Testimony of Matthew R. Young*; and that the same is true and correct according to his best knowledge and belief.

Further the Affiant sayeth not.

Matt Young
MATTHEW R. YOUNG

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Jackson, State of Missouri, at my office in Kansas City, on this 9th day of March 2023.

Janiece Davis
Notary Public

JANIECE DAVIS
NOTARY PUBLIC - NOTARY SEAL
STATE OF MISSOURI
MY COMMISSION EXPIRES FEBRUARY 13, 2026
JACKSON COUNTY
COMMISSION #22076386