

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of Union Electric Company, d/b/a)
Ameren Missouri's Tariff to Increase Its Annual) **Case No. ER-2012-0166**
Revenues for Electric Service.)

CONCURRING OPINION OF CHAIRMAN KEVIN D. GUNN

The Commission's order in ER-2012-0166 is a fair order and reflects just and reasonable rates based upon substantial and competent evidence. However, in order to expand on certain issues included in the Report and Order, I am attaching this very short concurrence.

The Report and Order correctly applies a Return of Equity of 9.8%. In the absence of contravening issues, I would have advocated for a slightly lower Return. However, in an Order of this magnitude, a balance in the public's best interest must be struck, and I recognize that a significantly lower ROE would have most likely resulted in an almost immediate filing of a new rate case. Additionally, such a low ROE would have had an unnecessarily negative impact on Ameren's cost of capital. Neither of these would, in the long term, benefit the ratepayer.

It is important to remember that ROE is essentially a theoretical number that defines a utility's "opportunity" to earn on its investment. It is not a guarantee of profit, nor is a utility guaranteed to earn that percentage. There does exist in the utility world an "echo chamber" where an ROE is driven not necessarily by evidence, but by concern about perceptions of investors. While it is important to recognize that this echo chamber tends to inflate ROE's beyond the actual cost of capital, one cannot ignore the very real world implications of earning below the mainstream of the industry. Investors will put their money where they believe they will earn a sufficient return. Utilities must compete for those dollars and the harder it is to attract investors, the more the cost of capital rises.

I think the markets and investors would have been comfortable with an ROE of below 9.8% and I would have supported that number. However, the evidence and testimony does support the higher ROE. Ameren should be on notice that if the cost of capital remains where it is today, lower ROE's may be awarded.

I would have also voted to end Ameren's vegetation management tracker. Trackers tend to remain past their usefulness and there is a danger that mechanisms meant to assist with acute issues become chronically renewed

without much scrutiny. Through one full urban cutting cycle and 2/3 through a rural cutting cycle, costs have remained remarkably stable and could be accounted for in base rates. If the costs do fluctuate wildly over the next cycle, those may be demonstrated in the next rate case and adjustments may be made. Also, any extraordinary costs associated with vegetation management due to increase storm activity could be accounted for in the authorized storm tracker.

Although the Commission has authorized rate case expense in this case, it has also opened docket AW-2011-0330 open to explore the potential of sharing these costs between ratepayers and shareholders. A utility is required to go through a rate case filing in order to increase revenues, however, that requirement is because they enjoy a monopoly in their service territory. Clearly when revenues are increased and a utility gets to recover its cost plus a return, shareholders benefit. It is impossible to claim that shareholders do not benefit from the rate case proceedings and to do so is disingenuous. I believe it is appropriate to allow some sharing of rate case expense. If not for the open docket, I would have allocated some of the rate case expense costs to the utility. There are many questions as to what the correct allocation formula should be as how to calculate benefits that should be resolved using the docket/workshop process. The Commission should proceed with all deliberate speed in concluding the workshop and moving towards a rule that would allow for a fair allocation of rate case expense to utility shareholders.

This is an important report and order because it authorizes and incorporates a historic agreement on energy efficiency measures. Measures that I hope will allow individual customers to offset the increased rates in this report and order if efficiency programs are fully implemented and utilized. Ameren and the parties should continue to work together to allow customers to make their homes and their usage more efficient.

Despite these slight disagreements with the Report and Order, I believe that the conclusions are supported but substantial and competent evidence and concur in the result.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kevin D. Gunn". The signature is written in a cursive, flowing style.

Kevin D. Gunn
Chairman

Dated at Jefferson City, Missouri
On this 12th day of December, 2012.