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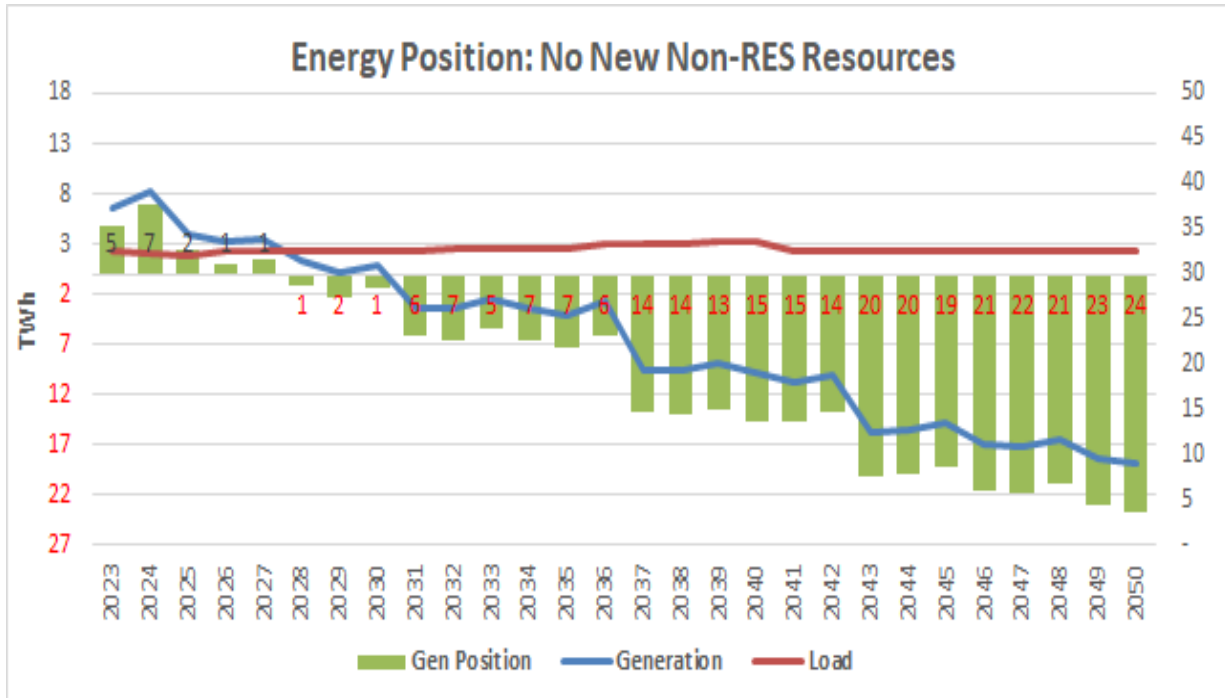
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whether the Project's construction is in the public interest: "If the granting of the authorization subserves a genuine and reasonable public interest in promptness and economy of service, then the public 'convenience and necessity' or 'public need' *is served.*" *In the Matter of Applications of: Churchill Truck Lines, Inc. et al.*, 27 Mo. P.S.C. (N.S.) 430 (June 20, 1985) (emphasis added), *citing Twehous Excavating Co. v. Pub. Serv. Comm'n*, 617 S.W.2d 104, 106 (Mo. App. WD 1981). In other words, "[a]ny improvement which is highly important to the public convenience and desirable for the public welfare may be regarded as necessary. If it is of sufficient importance to warrant the expense of making it, it is a public necessity." *In the Matter of KCP&L Greater Missouri Operations*, 515 S.W.3d 754, 759 (Mo. App. W.D. 2016), *quoting State ex rel. Missouri, Kansas & Oklahoma Coach Lines*, 179 S.W.2d 132. 136 (Mo. App. K.C. 1944) (citations omitted).

As addressed in detail below, under the legal standard outlined above, the Commission can easily determine, in the exercise of its discretion in CCN cases, that the foregoing standard is met. That the standard is met despite Staff's overly narrow and legally infirm viewpoint of "need" is demonstrated by numerous factors, including the Company's and its customers' energy needs, the risk mitigation the Project provides, the competitive advantage brought to the state in meeting customer needs for renewable energy, the fact that the approach being taken by the Company produces the lowest net present value of revenue requirement ("NPVRR") for its customers, and by the practical considerations to timely add renewable resources.

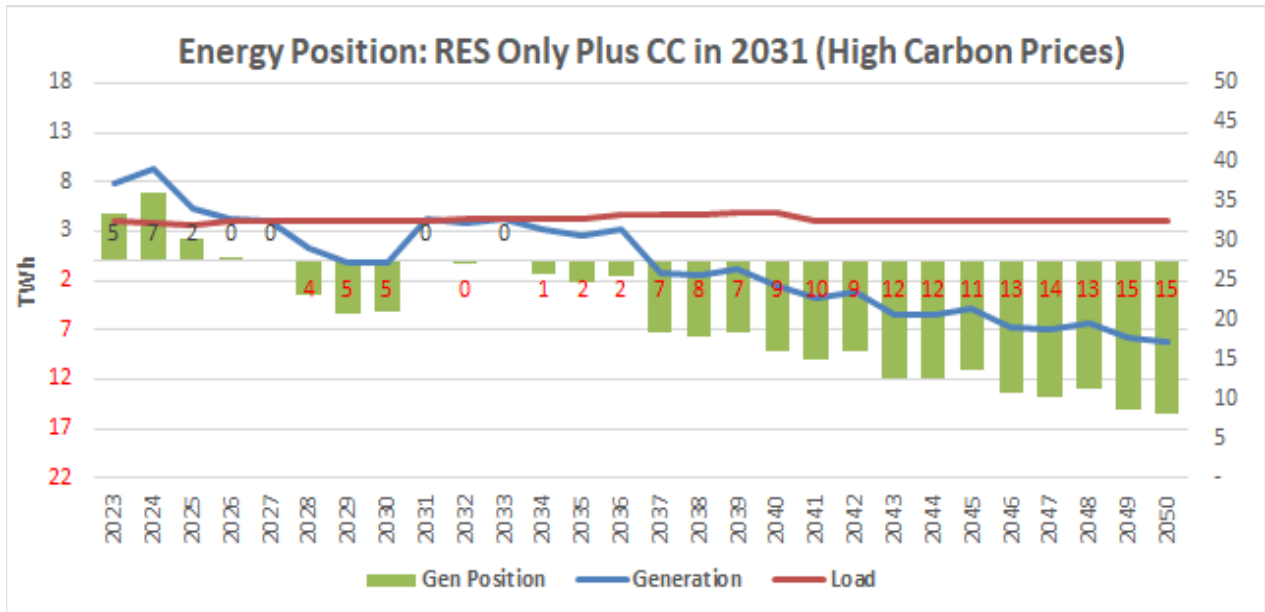
The Company's evidence demonstrates – a demonstration that has not been challenged by contrary evidence – that even under base, "normal" planning conditions, its generation resources

are not expected to generate enough energy to meet its load by 2028, as shown by Company witness Matt Michels Surrebuttal Testimony Figure 1:²



² Ex. 4, Matt Michels Surrebuttal Testimony, Figure 1, p. 19.

There exist other circumstances – e.g., imposition of high carbon prices on fossil-fueled generation or loads that are greater than the normalized loads used for base planning cases – where this energy shortfall occurs about three years from now. The energy position with high carbon prices is shown in Michel’s Surrebuttal Testimony Figure 3,³ reproduced below:



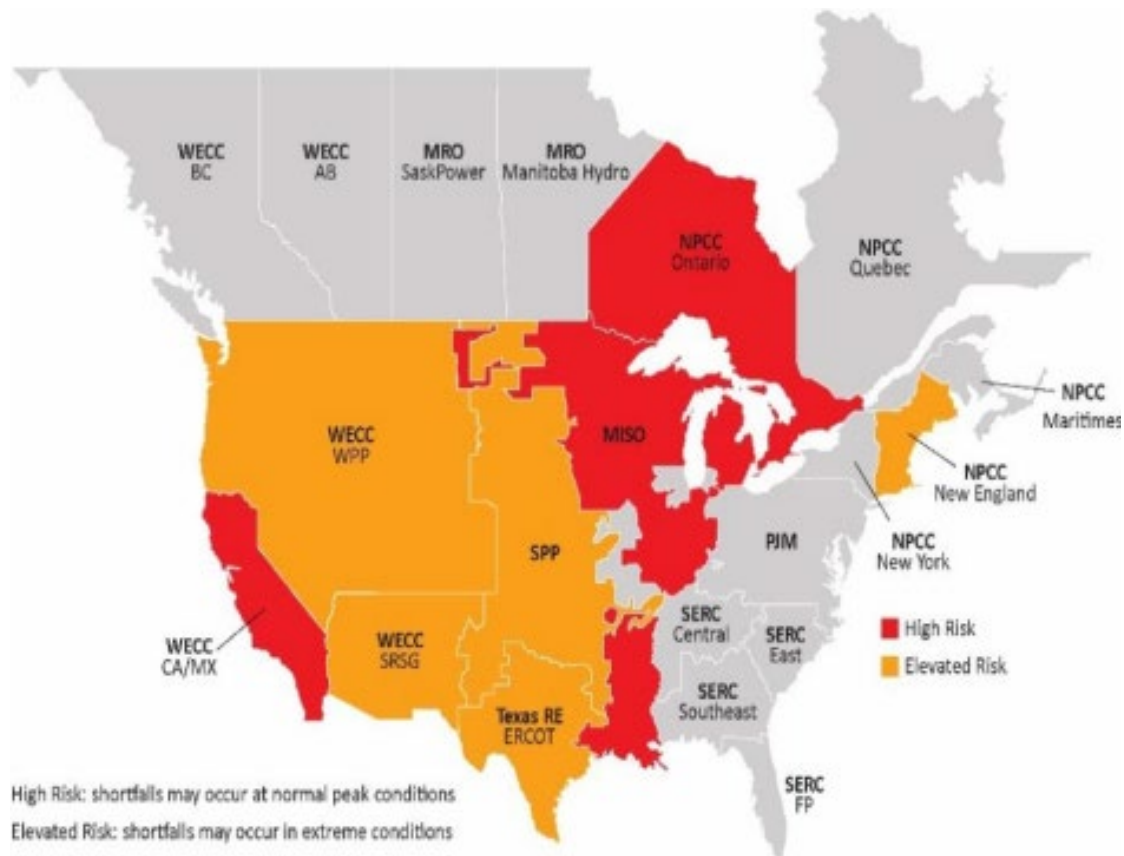
The Company’s prospective energy position stands in stark contrast to the historical energy buffer from which its customers have benefitted – around 5 to 7 and as many as 10 million megawatt-hours (“MWhs”) each year⁴ – and that short or near-short energy position will exist at the same time when MISO⁵ itself is also projected to be short, when MISO is, as NERC puts it, a

³ *Id.*, p. 22.

⁴ *Id.*, Figure 1, p. 19; Tr. P. 144, ll. 18-24.

⁵ Midcontinent Independent System Operator.

“high-risk” area, as shown in the figure below (Ajay Arora Surrebuttal Testimony Figure 1):⁶



Given the far different circumstances the Company faces today and tomorrow, in contrast to its circumstances in the past, it and the Commission need to recognize that the Company cannot simply plan to meet a specific capacity deficit – measured in megawatts (“MW”) of capacity listed on paper – at a specific future point in time. “Need” simply cannot be defined so narrowly if the Company is going to be assured of having the ability to reliably, and cost-effectively, meet its service obligations throughout the year. In the past, such an approach worked – if the Company

⁶ Ex. 2P, Ajay Arora Surrebuttal Testimony, p. 10.

lost a major generating unit, or could not get coal to its plants, or faced an extreme weather event that drove loads to abnormally high levels, among other things – it had a buffer it could call on. In addition, MISO itself had a buffer that could be leaned on that it does not have today.⁷ Given those realities, how the Company plans and implements resource additions is, and necessarily must be, different than it has been in the past.⁸ In evaluating CCN requests to add resources, the Commission should recognize and account for those differences instead of treating the present circumstances as business as usual, as opponents of the CCN request are doing. As Company witness Steven Wills put it, the Company cannot reduce emissions, implement resources that provide the low-cost energy its customers need,⁹ and provide reliable service in an affordable manner by “just looking at what’s the one resource I need next and then wait and then say, okay, now what’s the one resource I need next.”¹⁰ Rather, in order to maintain reliability, the Company needs to stage its additions to the new fleet that will ultimately replace the old fleet and “build it in a systematic manner over years. . . .”¹¹ And as Company witness Arora testifies, the Company cannot simply stand by and watch good renewable projects pass them by, which is precisely what will happen if the Commission does not approve the Project.¹² Missouri Industrial Energy Consumers ("MIEC") witness Maurice Brubaker, who has deep utility industry experience including experience with renewable energy development, agrees.¹³

⁷ *Id.*, p. 4, l. 11; p. 9, l. 13 – p. 10, l. 1.

⁸ *Id.*, p. 12, ll. 6-12.

⁹ Renewables, which have no fuel costs, are the least cost energy resources the Company can add. Tr., p. 81, ll. 9 - 24; p. 83, ll. 5-19.

¹⁰ Tr., p. 252, ll. 6 - 9.

¹¹ Tr., p. 252, ll.9 - 12.

¹² Ex. 2P, Ajay Arora Surrebuttal Testimony, p. 24, l. 22 – p. 25, l. 13; Ex. 1P, Arora Direct, p. 16, l. 17 – p. 15, l. 12.

¹³ Ex. 301, Maurice Brubaker Surrebuttal Testimony, p. 3, ll. 4-19.

There is no reasonable question that the Company’s generation fleet will – and must very soon – consist of significantly more renewable energy resources than it does today.¹⁴ There is virtually no chance the Company does not need 150 MW of new solar generation.¹⁵ Before the Commission in this case is a single, 150-MW solar facility, which qualifies for a 40% Investment Tax Credit (“ITC”), meaning its net cost will be just 60% of its actual construction cost. Building the Project indeed does serve a genuine and reasonable public interest, and it is therefore needed under § 393.170.3.¹⁶ It does so because the Company needs the energy, the facility will provide it at the lowest cost of energy available, the facility will produce no emissions, and the facility’s cost is substantially reduced by the ITC.¹⁷ And while this fact was literally ignored by Project opponents – Staff and Office of Public Counsel (“OPC”) – the Project, together with other substantial renewable energy resource additions, energy storage systems, and lower-carbon dispatchable resources, is projected to meet the needs of the Company’s customers at an NPVRR that is lower, by more than \$600 million,¹⁸ than the alternative approach in effect still advocated for by Staff and OPC. Taking the “let’s identify X need at Y time and pick Resource A to meet it, and then do that again,” as Company witness Wills identified, fails to holistically plan for what the

¹⁴ Ex. 3, Matt Michels Direct Testimony, Sch. MM-D2, showing a need for 3,500 MW of renewable generation by 2030, which as noted is the least cost energy resource. Regardless of exactly when an energy shortfall is projected to occur (2028 under normal conditions, sooner otherwise) no party disputes that energy shortfalls are projected to occur prior to 2030. *See also* Ex. 4, Matt Michels Surrebuttal Testimony, p. 24, ll. 5 – 11. Also consider MISO’s own projections of renewable additions in its footprint, showing wind and solar making up 42% of MISO’s energy mix by 2031. It is simply not credible to conclude that Ameren Missouri can stand-by and rely almost entirely on coal and gas-fired resources over the next few years given these industry-wide changes.

¹⁵ Ex. 4, Matt Michels Surrebuttal Testimony, p. 24, ll. 9-10.

¹⁶ *Churchill Truck Lines, supra.*

¹⁷ Tr., p. 227, l. 7 – 11. The facility’s cost is being further subsidized by the subscribers to the RSP. RSP subscribers are projected to lower the facility’s net present value of revenue requirement by approximately \$12 million to as much as approximately \$28 million over its useful life. Ex. 9P, Lindsey Forsberg Surrebuttal Testimony, p. 5, Table 2.

¹⁸ Ex. 4, Matt Michels Surrebuttal Testimony, p. 27, ll. 4 – 8. Customers’ need for energy and for capacity will be met by taking this approach.

new fleet needs to consist of, given the substantial changes in generation mix that are already occurring at the Company specifically, and in the industry in general.

Approval of the Project will in fact accomplish precisely what the Commission itself has recognized needs to be accomplished, that is, approval will promote “the public policy of this state to diversify the energy supply through the support of renewable and alternative energy.”¹⁹ In addition, approval will promote the Commission’s “general support for renewable energy generation . . . [given that it] provides benefits to the public.”²⁰ And in addition to providing low-cost needed energy, approval will also “provide positive environmental impacts, since displacement of fossil fuels for . . . [solar] power will reduce emissions of carbon dioxide, sulfur dioxide, and nitrogen oxide.”²¹

The Project opponents ignore the Project's public interest benefits, define need in such a way that creates an unreasonably high bar for renewable projects, and in general while claiming to support renewables, take unreasonable positions and propose unwarranted conditions on CCN requests for renewables that if adopted, would treat renewables as second-class citizens.²²

With respect to the RSP, its approval has two primary benefits. First, as earlier noted, the program’s existence further subsidizes, that is lowers, the NPVRR associated with the Project, under any reasonable scenario. Second, the RSP will make Missouri more competitive in attracting and retaining businesses or business expansions, which in turn generates jobs, taxes, other economic benefits and allows the Company to spread its fixed costs over more sales, to the benefit of all customers.²³ This competitive advantage is supported regardless of the location of the renewable

¹⁹ *In the Matter of the Empire Dist. Elect. Co.*, File No. EO-2019-0010, et al., Report & Order, Eff. December 6, 2019, 2019 WL 3020973 (Mo. P.S.C.), Conclusion of Law G.

²⁰ *Id.*

²¹ *In the Matter of Grain Belt Express*, File No. EA-2016-0358, Report and Order on Remand, Eff. Apr. 19, 2019, 2019 WL 1354055 (Mo.P.S.C.).

²² Tr., p. 218, l. 12 – 18; Ex. 600, James Owen Surrebuttal Testimony, p. 8, ll. 18-23.

²³ Ex. 6P, Robert Dixon Surrebuttal Testimony, p. 6, ll. 15-22.

facility at issue – as evidenced by the robust subscriptions already in hand from subscribing customers who sought even more MW of renewable capacity than the Project makes available.²⁴

In summary, approving the Project presents an opportunity for the Commission to make a no regrets decision – approve the CCN – and to also approve the RSP, which simply makes the Project more cost-effective for all, while meeting the needs of the subscribing customers and providing benefits for the state in general, including for all the Company’s customers.

FACTS PERTAINING TO THE CCN REQUEST

The Project is a 150 MW solar facility to be acquired by the Company under a Build Transfer Agreement (“BTA”). This structure is similar to the structure utilized for other recent renewable projects approved by the Commission, including the High Prairie and Atchison wind facilities, and the Huck Finn solar facility. The Project will be interconnected to the transmission system under MISO’s functional control, and is sited in White County, Illinois, approximately 130 miles southeast of St. Louis. It will increase the nameplate capacity of Ameren Missouri’s already-existing generation fleet located in Illinois by about eight percent.²⁵ Its energy will serve Ameren Missouri’s load just as that existing Illinois generation does today, given that there exists ample transfer capability between Illinois and Missouri.²⁶ It will also provide geographic diversity which enhances reliability.²⁷ The Project is sited in an “energy community,” as defined by the

²⁴ Tr., p. 156, l. 14 – p. 157, l. 15 (the location of the resource does not matter given that the generation will be part of Ameren Missouri's generation mix); Ex. 7P, Lindsey Forsberg Direct Testimony, p. 12, ll. 1-12 (ten customers have signed binding commitments for 150 MW but sought 269 MW).

²⁵ Tr., p. 97, ll. 7 - 10 (Discussing the 1,800 MW of Ameren Missouri generation already in Illinois; the Project is 150 MW).

²⁶ Tr., p. 97, l.1 – p. 98, l.12 (Witness Arora discussing the benefits of geographical diversity and the lack of concern in terms of transferability of the energy; Tr. P. 112, ll. 15 – 24. (Witness Arora indicating there is no concern with the Project’s location in Illinois, noting that the Company has “operated that way for decades.”). Staff witness Shawn Lange also indicated that he is not aware of any transfer capacity problem from Illinois to Missouri and acknowledged that Ameren Missouri has had significant generation in Illinois for quite some time. Tr. p. 355, l. 15-24. Capacity and energy prices have also historically been higher in Illinois. Tr. P. 113, ll. 4 – 21.

²⁷ Tr., p. 98, ll. 4 – 12.

federal Inflation Reduction Act (“IRA”) enacted in August 2022, and thus will qualify for an ITC of 40 percent, effectively reducing its cost by that amount.²⁸ To utilize the ITC and maximize getting its benefits to customers, the Company may have to utilize a tax equity partner to avoid a requirement that it normalize the ITC benefits over the Project’s 30-year life. Use of a tax equity partner may, however, not be necessary under the terms of the IRA.²⁹ Regardless, if use of a tax equity partner is necessary the Company will return to the Commission to request permission necessary and, in any event, will seek to choose the tax strategy for the Project that is most beneficial to its customers.³⁰

Historically, each year Ameren Missouri has produced approximately 15-20 percent more energy than consumed by its load, providing Ameren Missouri with an energy buffer.³¹ This buffer meant that Ameren Missouri – and the Commission – did not need to be significantly concerned about having enough energy to meet load, even in times of system stress, such as when a major generating unit might be lost, when generation might be constrained, or when loads were abnormally high. When the buffer of energy was not literally needed to cover lower than expected generation or higher than expected loads, the Company was able to sell the energy into the market, and credit those sales back to customers via its fuel adjustment clause, in hours when its generation exceeded its load.³² That buffer will become very small under base or “normal” planning conditions by 2025.³³ Under a variety of circumstances, that buffer could become a shortfall then or soon thereafter.³⁴

²⁸ Tr., p. 167, ll. 1 – 14.

²⁹ Tr., p. 171, ll. 2 – 18. If a tax equity partnership would become necessary, the Company will return to the Commission for whatever approvals are needed.

³⁰ Ex. 12P, Steven Wills Surrebuttal Testimony, p. 51, ll. 4-16.

³¹ The buffer has at times been more than 10 million MWHs. Tr., p. 144, ll. 18-24.

³² Ex. 4, Matt Michels Surrebuttal Testimony, p. 11, ll. 2-4.

³³ *Id.*, Figure 2.

³⁴ *Id.*, Figures 3 and 4.

The Project is proposed to be acquired primarily to begin replacing energy no longer being produced by retired or retiring facilities (principally Meramec and Rush Island) and is the first non-Renewable Energy Standard (“RES”)-compliance resource to be acquired for that purpose. The Company will need many more renewable energy facilities in the coming years – both wind and solar facilities – together with additional dispatchable resources that will provide the accredited capacity needed to maintain reliability, including a combined cycle generating unit to replace the Sioux Energy Center and energy storage systems.³⁵ The Company will continue to engage in ongoing resource planning and will, as appropriate, adjust its resource additions as circumstances change.³⁶ The Commission will continue to have oversight of actual resource implementation, both the technology and project sizes, through the CCN process.

Renewable energy resources provide the least cost energy available, and have no fuel risk or emissions.³⁷ The Company’s Preferred Resource Plan (“PRP”), which adds renewable energy resources primarily to provide energy and not capacity (although some capacity value does exist), together with other planned resource additions (including dispatchable gas-fired generation in approximately 2031 and energy storage) is projected to meet its customers’ needs over the 20-year planning horizon at a cost that is more than \$600 million lower, on a NPVRR basis, than a plan that would follow the more traditional, historical approach of only adding generation to meet a capacity shortfall.³⁸

The Company’s PRP is in line with what is happening in the industry in general, including in many midwestern or adjoining states. Specifically, nationally there are 41 regulated investor-

³⁵ Ex. 3, Matt Michels Direct Testimony, Schedule MM-D2, p. 2, Figure 1.

³⁶ Ex. 2P, Ajay Arora Surrebuttal Testimony, p. 25, l. 14 - p. 26, l. 2. As Company witness Michels testified, a “sustained transition provides flexibility for making adjustments as conditions change and recognizes the implementation risks associated with a rapid large buildout of new resources.” Ex. 3, Matt Michels Direct Testimony, p. 21, ll. 7-9.

³⁷ Tr. P. 81, l. 16-18, 23-25 ; p. 104, l. 8-10.

³⁸ Ex. 4, Matt Michels Surrebuttal Testimony, p. 27, ll. 3 – 17.

owned utilities who are facing similar circumstances to Ameren Missouri relative to transitioning their generation fleets to much greater reliance on renewable energy resources.³⁹ Those 41 utilities have already been allowed by their regulators to add nearly 10,000 MW of renewable generation, above any state renewable portfolio standard requirements, including 3,699 MW of solar generation and 6,001 MW of wind generation.⁴⁰ These approvals have occurred in states like Indiana, Arkansas, South Dakota, and Mississippi, to highlight just a few.⁴¹ Those state commissions recognize – as the Company asks this Commission to recognize – that adding renewables to utility generation fleets has many benefits, including mitigating concerns that otherwise exist when there is a lack of fuel diversity, mitigating price volatility, reducing emissions, and mitigating implementation risks.⁴²

The Company filed its CCN application in July 2022, which is within the three-year “implementation period” reflected in the Commission’s resource planning (“IRP”) rules.⁴³ Prior to the change in PRP submitted in June 2022, the Company’s PRPs did not call for major generation additions within the three-year implementation period.⁴⁴

Renewable energy development is a difficult, lengthy process with successful projects taking between 5 and 8 years to reach commercial operation.⁴⁵ The Company’s latest renewable resource request for proposal (“RFP”) produced responses for 51 potential projects, only four of which proved viable.⁴⁶ Projects fail for a variety of reasons, including problems with siting,⁴⁷

³⁹ Ex.5, Mike Granowski Surrebuttal Testimony, p. 3, ll. 6-15.

⁴⁰ *Id.*, p. 3, l. 16-19.

⁴¹ *Id.*, pp. 6-7, p. 9.

⁴² *Id.*, p. 5, l. 18; p. 7, ll. 9-18.

⁴³ 20 CSR 4240-22.020(25).

⁴⁴ Tr. p. 418, ll. 2 - 22

⁴⁵ Ex. 1P, Ajay Arora Direct Testimony, p. 14, l. 19 – p. 15, l. 12. Staff does not take issue with witness Arora’s statement that development takes 5 to 8 years. Tr. p. 393, ll. 4 – 16.

⁴⁶ Ex. 2P, Ajay Arora Surrebuttal Testimony, p. 25, ll. 1-13.

⁴⁷ The project site consists of approximately 2,400 acres. Tr. p. 202, l. 9 - p. 203, l. 9.

permitting or construction issues, supply chain constraints, or transmission interconnection issues, to name a few.⁴⁸ The Company itself has lost a Commission-approved project, the Brickyard Hills wind facility, because one of the myriad risks involved in renewable development implementation – excessive transmission interconnection costs – materialized.⁴⁹

The Project is expected to provide approximately 350,000 MWhs of energy needed to serve the Company’s customers annually.⁵⁰ It is not being proposed to speculate that its economics will be such that it fully covers its revenue requirement, i.e., that it will pay for itself, because it is needed to meet its customers energy needs, although it could pay for itself.⁵¹ It will produce energy (and is accredited at 45% of its nameplate capacity for accredited capacity in MISO during the summer when both Ameren Missouri’s and MISO’s systems peak).⁵²

According to NERC, MISO may be short as soon as the summer of 2023, which has occasioned NERC to designate MISO as a “high risk” region.⁵³ Adding the Project and ultimately additional renewable energy resources mitigates numerous risks, especially risks related to unplanned system events.⁵⁴ Unplanned events of course happen, but historically have not resulted in an actual inability to meet load thanks to Ameren Missouri’s significant energy buffer. In recent history, the Company’s Labadie and Callaway Energy Centers have been forced to reduce energy production due to river water intake restrictions both in the winter, due to ice packs, and in the

⁴⁸ Ex. 1P, Ajay Arora Direct Testimony, p. 15, l. 13 – 22.

⁴⁹ *Id.*, p. 20, ll. 14-19.

⁵⁰ Tr., p. 238, ll. 12 -13.

⁵¹ Tr., p. 214, l. 2 - 6. Staff concedes the Company is not justifying the project based on economic speculation. Tr. p. 357, l. 13 -16.

⁵² Ex. 2P, Ajay Arora Surrebuttal Testimony, p. 9, l. 19 - p. 10, l. 7 (including Figure 1). Solar generation provides some energy hedge in the winter as well, as demonstrated by other Company solar facilities operation at near 50% of capability just before Christmas 2022. *Id.*, p. 15, l. 3-10; Ex. 4, Matt Michels Surrebuttal Testimony, p. 40, l. 14 – p. 42. L. 9 (demonstrating that while the primary drive of adding the Project is not to meet winter needs, such projects indeed do provide energy and capacity benefits in the winter); Tr., p. 96, ll. 5 – 6 (discussing the 45% accreditation).

⁵³ Ex. 2P, Ajay Arora Surrebuttal Testimony, p. 10.

⁵⁴ *Id.*, p. 8, l. 7 – p. 9, l. 2.

summer, due to drought; the Osage Energy Center has had its operations restricted just this winter, due to low water levels.⁵⁵ Coal conservation measures also reduced generation last summer due to railroad staffing problems, and the Callaway Energy Center was offline for approximately seven months in 2021.⁵⁶ These sorts of unplanned events could happen again, including the very real risk of earlier-than-expected retirement for Ameren Missouri's remaining coal-fired generation.⁵⁷ Rules currently under consideration by the Environmental Protection Agency could constrain energy production from existing Company generation, including during the summer months, thus further shortening the Company's energy position as compared to the base planning case.⁵⁸ Additional solar generation would mitigate the risks posed by the imposition of such constraints.⁵⁹

ARGUMENT - CCN

I. THE COMPANY HAS ESTABLISHED THAT THE PROJECT IS NECESSARY OR CONVENIENT FOR THE PUBLIC SERVICE, AS REQUIRED BY § 393.170, RSMo.⁶⁰

A. The Applicable Law.

The Company's burden in a CCN case is to establish, by a preponderance of the evidence, that the proposed construction – the Project here – is necessary or convenient for the public service.⁶¹ As the cases cited above indicate, this does not require the Company to show that the Project is essential or absolutely indispensable for it to provide service. All the Commission must

⁵⁵ *Id.*, p. 21, l. 5-10. Sierra Club witness Shenstone-Harris discusses this risk as well, including citing to NERC's own concerns about the reliability risk that drought could pose to thermal generators, like Ameren Missouri's coal-fired units, noting that these risks have manifested themselves. Ex. 500, Shenstone-Harris Rebuttal Testimony, p. 16, l. 8 – p. 17, l. 4.

⁵⁶ Ex. 2P, Ajay Arora Surrebuttal Testimony, p. 21, l. 6-7.

⁵⁷ *Id.*, p. 20, l. 18 – p. 21, l. 4.

⁵⁸ Ex. 3, Matt Michels Direct Testimony, p. 15, ll. 2-8.

⁵⁹ *Id.*, p. 15, l. 8-12.

⁶⁰ This section of the Company's brief addresses Issues A and A1 on the List of Issues submitted by the parties in this docket.

⁶¹ § 393.170.3. The preponderance of the evidence standard means that the Company need make the showing that it is more likely than not that the Project is necessary or convenient for the public service. *See, e.g., In the Matter of the Application of Grain Belt Express for a CCN*, File No. EA-2014-0207, Report and Order, Eff. July 31, 2015, 2015 WL 4124748 (Mo. P.S.C.).

determine, based upon the record, is whether in its view granting the permission sought “suberves a genuine and reasonable public interest.”⁶² If the Commission makes that determination, “the ‘public need’ [i.e., public convenience or necessity] ... *is served*.” Put another way, the Commission need only ask and answer one simple question: is building this 150 MW solar facility an improvement justified by its cost? *State ex rel. Intercon Gas*, 848 S.W.2d at 597.

A fair evaluation of the record in this case demonstrates that the answer to that question is “yes.”

B. The Evidence Supports the Conclusion that the Project is Necessary of Convenient for the Public Service.

- i. The Company needs to add renewable energy resources, including solar resources, to provide energy to its customers across all seasons, and to mitigate the risks it and its customers now face.

Ameren Missouri’s generation fleet is undergoing significant changes. One of its large baseload plants has retired (Meramec). An even larger baseload plant will be retired in approximately two years or less (Rush Island).⁶³ Rush Island’s operations have already changed given its current operation as a system support resource (“SSR”).⁶⁴ These circumstances have changed Ameren Missouri’s energy position from a utility that historically had a significant energy buffer – 15 – 20% beyond its load, and at times 10 million MWhs or more in excess of its load – to a utility that by 2025 or sooner, will have little or no buffer in its energy position and that will actually be short energy by 2028, assuming base planning assumptions under normalized conditions.⁶⁵ And if the Company’s base or normal planning assumptions do not hold, e.g., in the case of high carbon prices, high loads, unplanned forced outages of large units, or extreme weather,

⁶² *Churchill Truck Lines*, (emphasis added) *supra*, citing *Twehous*, 617 S.W.2d at 106.

⁶³ Ex. 2P, Ajay Arora Surrebuttal Testimony, p. 6, ll. 11 – 18.

⁶⁴ *Id.*, p. 13, ll. 5-7.

⁶⁵ *Id.*, p. 2, l. 20 – p. 3, l. 5.; Tr., p. 144, l. 18-24.

etc., the Company is projected to be short as soon as 2026.⁶⁶ This dramatic change – the absence of the energy buffer the Company and its customers historically enjoyed – exposes the Company and ultimately its customers to reliability and high market price risks.

Additional energy is needed in all seasons, including in the summer when both the Ameren Missouri and MISO systems peak.⁶⁷ New solar generation will provide that energy at the lowest cost among available options.⁶⁸ While the Project does not provide all the energy Ameren Missouri needs, and Ameren Missouri will very likely need additional energy from solar resources in the coming years, as well as energy from wind resources, the Project will help address the Company's energy needs by starting to mitigate the risks the Company and its customers largely did not face before but do face now.⁶⁹

The need to mitigate those risks – and thus the need for the Project – are not difficult to grasp. As noted, under normalized conditions the current projection is that the Company would have sufficient energy to serve its load for the next few years, although not by very much – perhaps by one to two million MWhs in a given year, as compared to its historical position of having three to five times that much. However, that narrow margin could easily fail to exist, for a variety of reasons, including:⁷⁰

- The imposition of carbon prices on fossil-fueled generators, or other limits on dispatch of fossil-fueled generation under EPA rules such as those under

⁶⁶ Ex. 4, Matt Michels Surrebuttal Testimony, Figures 3 and 4.

⁶⁷ Ex. 3, Matt Michels Direct Testimony, Schedule MM-D2, p. 16 (Table 4) (showing loss of load expectation concerns (red and yellow areas) in winter, summer, and fall months; Tr., p. 95, l. 17 – 19 (discussing the need for energy in all hours of the year).

⁶⁸ Tr., p. 81, ll. 9 -24; p. 83, ll. 5-19.

⁶⁹ Ex. 2P, Ajay Arora Surrebuttal Testimony, p. 12, ll. 3 – 5 (discussing why a staged approach to adding renewables is important, including why such an approach is consistent with recent NERC guidance).

⁷⁰ Notably, it is likely not possible to advance the construction of the combined cycle unit planned to go into service in 2031 to gain additional energy, nor is that unit to be installed primarily for energy. Tr., p. 112, ll. 5 – 11. Instead, its primary purpose will be a to provide capacity post-2030 when Sioux and certain combustion turbine units in Illinois will be retired. Ex. 4, p. 20, ll. 5 – 6.

consideration by the EPA right now, which would impact the ability to generate in the summer;⁷¹

- If loads are higher than the normalized loads used for resource planning, whether due to greater demand, or constraints on the Company’s ability to achieve planned cost-effective energy efficiency savings;
- If loads are higher because of (or generators are impacted by) extreme weather, whether a repeat of Winter Storm Uri, extreme heat, drought, or a repeat of the extended, bitter cold spell just before Christmas 2022, which saw two utilities shed load for the first time in their histories when they were unable to rely on the market to obtain the energy their customers needed;
- If an earlier retirement of Sioux or Labadie, and especially Sioux in the near- to intermediate-term, occurs, whether caused by a forced outage that is too expensive to fix, or due to environmental regulations that force earlier retirement; or
- If generation is less than predicted under normalized planning assumptions for other reasons, such as unexpected forced outages, lack of coal supply, lack of cooling water – all of which have happened in the recent past -- but which, with the presence of Meramec and Rush Island on the system, were manageable.⁷²

The need to mitigate such risks is made even more critical due to industry-wide changes, as recognized by NERC and shown by MISO’s own planning documentation. Just three months ago, NERC published its 2022 Long-Term Reliability Assessment, labelling MISO as a “high-risk” zone, and warning that MISO reserves could fall below acceptable levels this coming summer (2023), with the risk increasing in 2024 and beyond, especially from June to August, when MISO peaks.⁷³ The circumstances are that Ameren Missouri risks skating on the edge if it does not meaningfully and steadily add energy resources because MISO itself could also be skating on the

⁷¹ As Company witness Michels discusses, there are EPA regulations in the pipeline right now that “could potentially constrain the generation of Ameren Missouri’s coal-fired units . . . [and] these constraints would potentially limit generation in the summer months. Significant generation from solar resources during the summer months would provide a large measure of mitigation.” Ex. 3, Matt Michels Direct Testimony, p. 15, ll. 2 - 9.

⁷² The above – listed risks are discussed in detail through Company witness Arora's Surrebuttal Testimony (Ex. 2) and the impact of conditions that are not normal on the Company's energy position is addressed in Company witness Michel's Surrebuttal Testimony (Ex. 4), as discussed above.

⁷³ Ex. 2P, Ajay Arora Surrebuttal Testimony, p. 9, l. 13 – p. 12, l. 12.

edge and not in a position to provide the kind of backstop it may have historically been able to provide, if it cannot itself meet its energy needs in all seasons.⁷⁴ As NERC explains:

The impact of wide-area and long-duration extreme weather events, such as the February 2021 South Central U.S. cold weather event and the August 2020 Western U.S. wide-area heat event, have underscored the need to consider extreme scenarios in resource planning.... Regulatory and policy-setting organizations should use their full suite of tools to manage the pace of retirements and ensure replacement infrastructure can be timely developed and placed in service.⁷⁵

NERC also recently published an assessment specific to summer conditions (in June 2022). Among its key findings: “System operators in MISO are more likely to need operating mitigations, such as load modifying resources or non-firm imports, to meet reserve requirements under normal peak summer conditions. More extreme temperatures, higher generation outages, or low wind conditions expose the MISO North and Central areas to higher risk of operator-initiated load shedding to maintain system reliability.”⁷⁶ Additional solar resources will mitigate these kinds of peak summer circumstances.

NERC also strongly advises utilities (and by inference, the regulatory bodies that regulate them) that they need to plan for and implement resources using different criteria than those used in the past, including by considering extreme weather scenarios in resource and system planning and expanding resource adequacy evaluations *beyond reserve margins at peak times* (i.e., in deciding if resources are needed, they must go beyond simply asking whether a given capacity shortfall occurs at given future point in time) so that *energy* risks for all hours and seasons are accounted for.⁷⁷ These are exactly the kind of considerations Ameren Missouri’s IRP processes

⁷⁴ *Id.*

⁷⁵ Ex. 2P, Ajay Arora Surrebuttal Testimony, p. 11, ll. 3 – 8 (quoting the NERC report).

⁷⁶ Ex. 4, Matt Michels Surrebuttal Testimony, p. 12, ll. 10-16 and Schedule MM-S1 (the summer NERC report).

⁷⁷ *Id.*, p. 14, l. 8 – p. 15, l. 5.

are examining, and they reflect NERC's recognition that the risks Ameren Missouri needs to mitigate by adding energy resources like the Project, are real.

As Company witness Arora testified in response to one of Judge Seyer's questions:

The replacement of energy to meet our customer's needs is also a need. * * * Just because we have capacity does not mean we'll have energy in all hours of the year. We have seen several times historically where that's proven not to be the case for a myriad of reasons, operational, permitting, fuel access. So that's why as we think about the transition and the least cost transition we have to not only plan for energy but also for capacity separately.⁷⁸

Aside from pure reliability risk mitigation, energy resources in general, and solar resources in particular, can serve as an effective hedge against price spikes by producing energy that can offset the need for purchases or create additional off-system sales, especially in the summer when MISO is particularly tight energy and capacity.⁷⁹ Low-cost renewable resources similarly can act as a hedge against price exposure if increasing environmental pressures on fossil units continue to drive up their costs. Such resources also act as a hedge in periods of extreme demand, driven by extreme weather or otherwise, because every MWh of zero incremental cost renewable energy the Company can generate is a MWh that the Company does not have to buy when those extreme conditions drive market prices to high levels. Staff itself predicts – and Staff is right about this – that increased renewable penetration in MISO, which is happening with or without the Company, will increase volatility (including higher highs in times of stress) making this kind of market exposure more acute than it was in the past. As shown by the simple supply and demand curves Staff witness Michael Stahlman presented in his rebuttal testimony, under those tight conditions one can reasonably expect prices to spike, exposing those who do not have enough energy to meet

⁷⁸ Tr., p. 95, ll. 14 - 24.

⁷⁹ Ex. 2P, Ajay Arora Surrebuttal Testimony, p. 14, l. 7 - p. 15, l. 2.

their load – and their customers – to extremely high prices to get the energy that is needed, if that energy is available.⁸⁰

The bottom line is that *not* adding renewable energy resources to mitigate these kinds of risks would be imprudent, unwise, and reckless given the Company’s circumstances, the circumstances in MISO, and the transformational changes already occurring in the industry.⁸¹ Adding the Project will start to address the Company’s energy needs and will start to mitigate the just-discussed risks. Given the clarity around the existence of those risks and the magnitude of the need, adding the Project to the Company’s generation portfolio will be a no regrets decision.⁸²

That the need to add renewable energy resources to the Company’s generation portfolio exists is also demonstrated by the fact that other similarly situated utilities, literally all around us, have recognized and are addressing the same kind of risks facing Ameren Missouri, and are doing so with the support of their state regulatory commissions. As discussed in the Company’s rebuttal testimony, Staff takes numerous positions (to be addressed in more detail later in this brief) designed to sow doubt about whether the Project is needed. One of those positions is Staff’s claim that the Company’s plan to add renewable generation for the purpose of filling its clear energy needs is “unprecedented,” the implication being that the Company is asking this Commission to embark on some kind of risky or ill-considered path to address the changes that have occurred and are occurring at the Company, and that have occurred and are occurring in the industry. But Staff’s

⁸⁰ As Company witness Arora’s testimony demonstrates, these kind of price spikes are already being seen in MISO, including in the summer. *See* Ex. 2P, Ajay Arora Surrebuttal Testimony, p. 14, Figure 2; Other Missouri electric utilities have also seen huge cost impacts under extreme conditions (which are happening more often). *Id.*, p. 12, ll. 15 – 18; p. 15, ll. 19 – 22; p. 18, ll. 7 - 9.

⁸¹ *Id.*, p. 18, l. 18 - p. 19, l. 2.

⁸² As Company witness Michels testified, while it is possible that the Company will not ultimately need the entire 5,400 MW of new renewable generation (through 2040) called for by its PRP, reductions in the renewable resources planned for addition post-2030 are far more likely than those planned pre-2030, and there is “virtually no chance” that the Company does not need at least an additional 150 MW of solar generation. Ex. 4, Matt Michels Surrebuttal Testimony, p. 24, ll. 5-10.

claim is a false one, as evidenced by the actions of eight jurisdictions within reasonable proximity to Missouri who have clearly concluded that their utilities, facing similar circumstances as faced by Ameren Missouri, should add renewable energy resources beyond those required by state mandates.⁸³ It is not possible for the Company to act in an “unprecedented” way, when in fact there is clear precedent for what the Company is asking the Commission to allow it to do all around us.

There is another reason Staff’s claim that the Company is proceeding in an “unprecedented” fashion is not true. While over the next twenty years the Company’s PRP does call for the Company’s fleet to consist of far more renewable generation than it does now, the proportion of renewables in the Company’s fleet is planned to both increase more slowly than in MISO as a whole, and to ultimately be less than the renewable penetration in MISO as a whole.⁸⁴ How then could the Company’s ultimate plans be “unprecedented,” since in order for MISO to have a greater renewable penetration sooner, and ultimately a higher renewable penetration overall, others must obviously add (creating a clear precedent) more renewables than the Company plans to add, and add them faster.

While the Company in no way is suggesting that this Commission simply “follow the crowd” for the sake of doing so, the Commission should ask itself: why does the Staff claim the Company’s proposal is “unprecedented,” when the facts show it is most certainly not, and does the Staff possess some superior knowledge or skill such that its viewpoint of “need” is “right,” while the viewpoints of all these state commissions are somehow wrong? The answer to those

⁸³ Indiana, South Dakota, North Dakota, Wisconsin, Michigan, Oklahoma, Arkansas, and Mississippi. Ex. 5, Mike Granowski Surrebuttal Testimony, p. 4, n. 4.

⁸⁴ Tr., p. 378, l. 14 – p. 384, l. 1 (showing that under the Company's plans, the Company is expected to have a lower proportion of renewable generation in its fleet than the proportion expected in MISO as a whole over the next roughly 20 years).

questions is not difficult to discern: the Staff remains stuck in a planning mindset grounded in the Company's, MISO's, and the industry's circumstances of the past. Company witness Arora explained why Staff's mindset has led Staff to the wrong conclusion in this case:

The [NERC] report also goes on to suggest that: "planning and operating the grid must increasingly account for different characteristics and performance in electricity resources as the energy transition continues," and indicates that resource adequacy evaluations must necessarily expand beyond simply assessing reserve margins at peak times – as considered by traditional assessments of capacity need at peak times.¹⁵ This outdated "traditional assessment" is the approach Staff is still taking to assess need, but the Company's more holistic approach to resource planning and implementation is more aligned with NERC's recommendations.⁸⁵

The circumstances and risks facing Ameren Missouri are not unique, nor are its reasons for adding renewable energy resources. For example, in approving 900 MW of new solar generation at NIPSCO,⁸⁶ the Indiana Commission cited precisely the kinds of reasons cited by Ameren Missouri in this case: the solar facilities “provide needed energy, diversify NIPSCO’s supply portfolio, provide environmental benefits, and defend against fuel cost volatility.”⁸⁷ As Sierra Club witness Shenstone-Harris testified, fuel costs are projected to exceed 50% of the total levelized going-forward cost of Ameren Missouri’s fossil-fueled generating units, which exposes the Company and its customers to the risk that fuel costs increase and thus require customers to pay significantly higher rates.⁸⁸ The Project and solar facilities like it, together with planned additions of wind generation, substantially mitigate those risks. As Sierra Club’s witness Shenstone-Harris also points out, fuel price increases will also raise power prices, meaning that not only are the Company’s fossil-fueled generators exposed to the risk of higher fuel costs, but the Company is

⁸⁵ Ex. 2P, Ajay Arora Surrebuttal Testimony, p. 12, ll. 6 – 12 (quoting NERC report).

⁸⁶ Northern Indiana Public Service Company.

⁸⁷ Ex. 5, Mike Granowski Surrebuttal Testimony, p. 6, ll. 7-9 (quoting the Indiana Utility Regulatory Commission order in Docket No. 45462). There are numerous other examples where state utility commissions regulating utilities under circumstances similar to those faced by Ameren Missouri have approved solar generation for similar reasons. *Id.*, p. 6 – 10. As discussed later in this brief, this Commission too has repeatedly recognized these benefits as well.

⁸⁸ Ex. 500, Sarah Shenstone-Harris Surrebuttal Testimony, p. 14, l. 3-12, Figure 2, p. 15.

also exposed to higher purchased power costs when it needs to buy energy from the market.⁸⁹ The Project and other renewable energy resources also mitigate that risk, as already discussed above.

As Company witness Michels testified, Staff's "assessment of the Company's consideration of capacity and energy needs appears to be superficial, dated and *based on a risk-free view of the planning environment*" (emphasis added).⁹⁰ As the evidence in this case shows, including as detailed above, the planning environment is far from risk-free. As Company witness Michels also stated:

to put it even more simply, Ameren Missouri prefers to have the flexibility to slow down or change course [by mitigating these risks and meeting its energy needs now] to being in the position of wishing we had done more or moved faster, only to find ourselves in trouble, whether that trouble manifests itself in literally being unable to serve our customers when we need to, or unable to do so absent incurring massive cost to purchase power in the market at extremely high prices as we have seen other utilities have to do.⁹¹

- ii. The Company needs to add renewable energy resources starting now, and to continue to steadily stage more renewable energy resource additions as and when suitable projects become available.

Renewable energy projects tend to be smaller as compared to the large baseload units with which we are all familiar. They also operate at a lower capacity factor, since they depend on the wind or solar resource to operate, albeit those wind and solar resources have no fuel costs, which is one of the reasons renewable resources are the lowest cost source of energy.⁹² Such projects take a great deal of land – 2,400 acres for the Project alone -- creating siting challenges.⁹³ There are numerous other considerations that make development of such projects complex and time-consuming, with such development taking between 5 and 8 years. A large percentage of projects

⁸⁹ *Id.*, p. 15, ll. 9-12.

⁹⁰ Ex. 4, Matt Michels Surrebuttal Testimony, p. 38, ll. 4-9.

⁹¹ *Id.*, p. 38, l. 22 – p. 39, l. 4.

⁹² Tr., p. 81. Ll. 16-18.

⁹³ Tr., p. 202, l. 9 – p. 203, l. 9.

that are proposed will never be built.⁹⁴ There is also significant competition for projects that are proposed and eventually actually built. The Company's own experience demonstrates these challenges, including the fact that a wind project that got deep into the development process, including through approval by this Commission, could not be completed.⁹⁵ The challenges with actually implementing such projects are further demonstrated by another example of the Company's own experience, that is, the fact that of 51 proposed projects submitted in response to its renewable resource RFP, just four remain viable options for meeting the energy needs of the Company and its customers.⁹⁶ MIEC witness Brubaker recounted other examples of similar difficulties in his rebuttal testimony.⁹⁷

The energy need facing the Company and its customers is upon us, or nearly so, as discussed earlier. A failure to begin addressing it with renewable energy projects that are suitable and viable, would reflect poor and risky planning.⁹⁸ Those opposing the CCN request in this case have simply ignored these realities. Ignoring them will not make them go away, just as ignoring a leaking roof on one's house won't cause the roof to repair itself.⁹⁹ To the contrary, ignoring the realities posed by the significant challenges – inaction, waiting for the perfect time to find the perfect project – would be risky and could easily lead to reliability issues, shortage of energy, lack of operational experience, and exposure to extremely high market prices.¹⁰⁰ This is the path opponents of the Project are urging. It is a path the Commission should reject.

⁹⁴ Staff admits that way lower than 100% of the projects proposed in MISO's generator queue actually ever get built. Tr. p. 510, l. 19 – p. 511, l. 21.

⁹⁵ Ex. 2P, Ajay Arora Surrebuttal Testimony, p. 24, ll. 14 – 21.

⁹⁶ *Id.*, p. 24, l. 22 – p. 25, l. 13.

⁹⁷ Ex. 301, Maurice Brubaker Surrebuttal Testimony, p. 4, l. 12 – p. 8, l. 2

⁹⁸ Ex. 2P, Ajay Arora Surrebuttal Testimony, p. 23, l. 7-9.

⁹⁹ *Id.* p. 23, l. 10-12.

¹⁰⁰ *Id.*, p. 23, ll. 12-18.

This is not to suggest that just because Ameren Missouri's current IRP indicates that it needs to add 2,800 MW of solar and wind generation between now and 2030, and that it will take approximately 14 renewable projects to do it, that exactly that capacity and that number of projects will or ultimately should be added.¹⁰¹ The Company's resource planning process is ongoing. The Company plans, thoughtfully implements, learns, and adjusts its plans.¹⁰² The Commission will have its say for every single renewable resource addition to be proposed. The Company's current planning assumption that it needs many separate projects is not a reason not to approve the Project at issue here. To the contrary, it shows that adding this one project is a no regrets move.¹⁰³

There are other practical reasons driving the need to start implementing additional renewable energy resources now. Renewable energy resources produce varied amounts of energy depending on their location and weather conditions, which of course are not static year-to-year. Ameren Missouri has no solar facilities of the size of the Project and the Project, together with the Huck Finn project recently approved by the Commission, will constitute just two such facilities.¹⁰⁴ In order to know if, when, and where to add renewable energy resources over the intermediate- to long-term, and to understand how to capitalize on and optimize investments in energy storage to ensure reliability, the Company needs to operate multiple geographically and technologically diverse renewable facilities.¹⁰⁵ With respect to future energy storage, as Company witness Arora put it when testifying at the evidentiary hearing: "the operational experience we get by operating renewables allows us to determine how much and where storage should be sited so we are not overbuilding or underbuilding. That operational experience is vital to make that decision.

¹⁰¹ Ex. 1P, Ajay Arora Direct Testimony, p. 27, l. 7 – 17 (discussing currently planned renewable additions through 2030 and the number of projects that may be needed to make those additions).

¹⁰² Ex. 2P, Ajay Arora Surrebuttal Testimony., p. 25, ll. 14 – p. 26, l. 8

¹⁰³ *Id.*, p. 26, l. 9-16.

¹⁰⁴ Tr., p. 397, ll. 19 – 23; p. 407, ll. 13 – 20 (Staff witness Lange agreeing there are no other solar facilities in Missouri owned by an investor-owned utility anywhere near the size of the Project, Huck Finn being an exception).

¹⁰⁵ Ex. 2P, p. 20, ll. 1-17.

Otherwise, we are just, you know, planning blindly and hoping for the best.”¹⁰⁶ Building the Company’s renewable resource portfolio will also provide invaluable experience in two other key areas:

1. It will provide the ability to assess when and to what extent renewable energy is truly available over a wide range of weather conditions, which is dependent in large part on resource location, and;
2. It will provide an understanding of how the existing fleet may need to be dispatched differently than it has historically been dispatched to provide critical back-up generation in hours when the intermittent renewable generation is not available.¹⁰⁷

C. The Tartan Factor of “Need.”

All parties, as well as the Commission are familiar with the so-called “Tartan Factors,” one of which asks whether the project is needed. The Commission first articulated those factors in *Re Tartan Energy Co, L.c. dba Southern Missouri Gas Co.*, Report and Order, File No. GA-94-127 (Sept. 16, 1994), 1994 WL 762882 (Mo. P.S.C.). While these factors are not controlling but rather reflect guidelines for use in CCN cases,¹⁰⁸ an application of the “need” factor, as articulated and applied in the *Tartan* case itself, convincingly demonstrates that the Company has shown a need for the Project based upon the evidence adduced in this docket.

Tartan involved a request for an area certificate covering new natural gas service to several communities in southern Missouri, for which new gas distribution infrastructure would need to be built to provide the service. The communities in question were relying on propane or other

¹⁰⁶ Tr., p. 116, l. 2 - 16.

¹⁰⁷ Ex. 1P, Ajay Arora Direct Testimony, p. 12, l. 8 – p. 13, l. 5.

¹⁰⁸ See *In the Matter of KCP&L Greater Missouri Operations (CCN for Solar Facility)*, Report and Order, File No. EA-2015-0256 (Mar. 2, 2016), 2016 WL 946579 (Mo. P.S.C.) (The Tartan Factors are “merely guidelines for the Commission’s decision and are not part of the legal standard set forth by the controlling standard”); see also *In the Matter of The Empire Dist. Elect. Co. supra*, 2019 WL 3020973 (Mo.P.S.C.) (same).

sources of fuel at the time. The Commission's analysis of "need" in that case demonstrates that Staff's viewpoint about what constitutes "need" is far different than what the Commission viewed as "need" in the decision, indeed, that the Commission's formulation of the Tartan Factor of need squarely supports the conclusion that the Project at issue in this case is needed.¹⁰⁹

First, the Commission created the Tartan Factors fully recognizing that it was bound by the proper application of the standard in § 393.170.3, that is, that need does not mean that a given project must be "essential" or "absolutely indispensable," but that instead it need only be an "improvement justifying its cost." One cannot then apply the Tartan Factor of need in the manner it is being applied by the Staff, given that Staff completely ignores and discards any fact supporting need beyond facts showing that a generation addition will fill a capacity deficit of X MW at point in time Y. Staff ignores the need to mitigate the numerous risks discussed above and ignores the numerous implementation risks also discussed above. Is it possible those risks do not materialize and that in hindsight the Project was not indispensable? Anything is of course possible, but that is not and never has been the test of whether the Tartan Factor of need is satisfied.

Moreover, there are other aspects of the record in this case that demonstrate need for the same or similar reasons the Commission found that the Tartan Factor of need was satisfied. These include the Commission's conclusion in *Tartan* that the gas distribution infrastructure at issue in that case was needed for a variety of reasons, including based on the communities' "preference" for natural gas, the positive economic development impacts that granting the CCN would promote, the potential for lower energy costs for consumers, and the Commission's own stated policy of expanding access to the type of service in question. Each and every one of those reasons are present *in the case at bar* as well.

¹⁰⁹ See the extensive discussion of the "(1) Need for Service" portion of the *Tartan* decision.

That the Tartan Factor of need is satisfied in this case is also strongly suggested by Staff's and OPC's strenuous attempt to prevent Company witness Wills from testifying about how the record in this case demonstrates that "need," using the criteria used by the Commission in *Tartan* to assess that need, had been established.¹¹⁰ As Company witness Wills summarized the issue:

So yes, I do think our approach is consistent with the Tartan decision. The Tartan decision, you know, basically recognized that need did not mean absolutely indispensable but it was an improvement justifying its cost. And so what that improvement that's justifying the cost could be is much broader than some narrowly defined issue in Tartan. The Commission took into consideration its own preference for expanding natural gas service to underserved parts of the state, it took into consideration economic development benefits that would arise from the project, it took into consideration customers' preferences to be – so basically the communities that were going to be receiving natural gas service had essentially solicited the Company [sic] to come to them and deliver gas to them. And the Commission took into consideration those customers' preferences and essentially it looked at the totality of the benefit of that and said do they justify the cost. So really ultimately what we're looking at is the totality of the benefits. We have, you know, an energy need, we have customers who want new renewables, we have environmental risks that we have to prepare for for [sic] our customers. We have a major job ahead of us to, you know, build enough resources to replace all these retiring facilities over the next two decades. And the totality of those issues to me is – easily justifies the cost.¹¹¹

Opponents of the Project are not faithfully assessing need in the manner this Commission itself has indicated need must be assessed; they are not assessing need consistent with Missouri courts' pronouncements of what "necessary or convenient for the public service" does (and does not) mean; and they are not assessing need in the context of the Company-specific and industry circumstances that exist today. Their dated and overly narrow viewpoint of what need means is leading them to the wrong conclusion.¹¹²

¹¹⁰ Tr., p. 275, l. 19 - p. 279, l. 13.

¹¹¹ Tr., p. 279, l. 14 - p. 280, l. 14. Company witness Wills' pre-filed surrebuttal testimony (Ex. 12P, pages 32 – 35) also discusses why the Company's evidence establishes need, per the Tartan Factor of need and based on the facts of that case.

¹¹² Sierra Club witness Shenstone-Harris succinctly echoes the points the Company has made respecting why there are a number of needs being met by the Project, which Staff completely ignores. Ex. 500, Sarah Shenstone-Harris Surrebuttal Testimony, p. 7, l. 12 – p. 8, l. 23.

II. THE RECORD DEMONSTRATES THAT THE SECOND TARTAN FACTOR, ECONOMIC FEASIBILITY, IS SATISFIED.¹¹³

No party seriously challenges whether the Project satisfies the Tartan Factor of “economic feasibility.” The crux of Staff’s and OPC’s opposition is grounded on their claim that the Project isn’t needed, as they define “need.” They focus in on the earliest projected capacity shortfall (in the winter of 2028, under normal or base planning assumptions) as the only possible existing need and argue, to some extent, that the Project is not an “economically efficient” means of meeting that need, leaning somewhat on the increase in the Project’s estimated cost. However, neither of them claimed in rebuttal that the Project was not economically feasible within the meaning of the Tartan Factors.¹¹⁴ And if the Project is needed – and it is for the reasons discussed in Section I of the CCN Argument, above – its economic efficiency is largely a question of whether the utility is constructing it prudently (a ratemaking decision) and not whether the Project satisfies the “economic feasibility” Tartan factor.

Regardless, the Project is the product of a competitive RFP process and a due diligence examination of the alternative projects proposed in that process.¹¹⁵ It is the product of an arms-length negotiation between the Company and the developer. It is thus being acquired at a fair market price. While its estimated cost has increased by about 20% from the risk-adjusted cost presented when the Company filed this case, the available ITC has also increased by 33%, from

¹¹³ Addresses Issue A2 on the List of Issues.

¹¹⁴ Rebuttal testimony is required to “include all testimony which explains why a party rejects, disagrees or proposes an alternative to the moving party’s direct case.” 20 CSR 4240-2.130(7)(C). For the first time in its Statement of Positions, OPC claimed that the Project was not economically feasible solely because it may not have a negative revenue requirement (i.e., lower revenue requirement) over its life. This has never been the standard for improvements to a utility’s infrastructure that the Commission determines are necessary or convenient for the public service, nor did OPC, as the Commission’s rules require if that was its position, claim that the lack of a guarantee that the Project would lower revenue requirement rendered the Project not economically feasible when the Company’s direct case estimated, in 8 of 12 scenarios examined, that in fact the Project would result in an increase in revenue requirement. Ex. 7P, Forsberg Direct, p. 17, Table 2.

¹¹⁵ Ex. 2P, Ajay Arora Surrebuttal Testimony, p. 24, l. 22 – p. 25, l. 13; Ex 10P, Scott Wibbenmeyer Direct Testimony, p. 11, l. 6 – p. 15, l. 15.

30% to 40%. The updated estimate is *** _____
_____ ***

The simplified math is that the increased ITC mitigates nearly all of the increase in the Project's estimated cost, that is, applying the original ITC percentage of 30% to the prior estimate of approximately *** _____

_____ *** Even if that were not the case it would not mean that it is not economically feasible, but that fact does mean that any claim by Project opponents that the change in the Project's estimated cost gives them license to imply or claim for the first time at the evidentiary hearing that the Project is not "economically feasible" falls flat.

The Commission has stated that an applicant's ability to secure financing for a project in a §393.170 case is "overwhelming evidence that the proposal is economically feasible."¹¹⁶ This is essentially what Staff indicated in its rebuttal testimony, that given the investment to be made relative to Ameren Missouri's overall rate base, the Project is economically feasible.¹¹⁷ There is no issue respecting the Company's ability to finance the Project.

Finally, the Project is being proposed for implementation as part of the Company's PRP, which demonstrates that defining need as the Company has defined it and pursuing a significant transition to renewables starting now results in a NPVRR requirement for the Company's customers that is *more than \$600 million lower than the alternative* approach of focusing on adding generation only to meet a specific, projected capacity need at a given point in time, which

¹¹⁶ *Ozark Energy Partners, LLC*, Report and Order, File No. GA-2006 0561, 2008 WL 320769 (Mo. P.S.C.) (Feb. 5, 2008).

¹¹⁷ Ex. 106, Michael Stahlman Rebuttal Testimony, pp. 1-2.

is, in substance, Staff's approach to need in this case.¹¹⁸

III. THE RECORD DEMONSTRATES THAT THE THIRD AND FOURTH TARTAN FACTORS, ABILITY TO FINANCE AND QUALIFIED TO CONSTRUCT, ARE SATISFIED.¹¹⁹

No party disputes that the record establishes that the Company both has the ability to finance the Project and to construct it. See the Company's Verified Application.¹²⁰

IV. THE RECORD DEMONSTRATES THAT THE FIFTH TARTAN FACTOR, PUBLIC INTEREST, IS SATISFIED.¹²¹

An affirmative finding on the first four factors generally leads to the conclusion that the final factor, public interest, is satisfied.¹²² Application of that general principle here is demonstrably appropriate, for the reasons discussed in connection with Issues A1 to A4, above. A standalone examination of the record in this case also demonstrates that the public interest will be served by approving the CCN for the Project.

This Commission has provided clear and substantial guidance, stretching back roughly a decade, on the public interest question in the context of CCN cases involving renewable energy resources or other infrastructure necessary to support them.

In 2013, despite Staff opposition to the program at issue in that case, the Commission found:

Electricity generated from renewable resources such as solar, wind, geothermal, small and low-impact hydropower, and biomass has proved to be environmentally natural gas, and nuclear, which can have detrimental effects on human health and

¹¹⁸ Ex. 4, Matt Michels Surrebuttal Testimony, p. 27, ll. 4 – 8.

¹¹⁹ Addresses Issues A3 and A4 on the List of Issues.

¹²⁰ EFIS Item No. 9, ¶¶ 20 – 21; *See also* Staff's Statement of Positions, p. 4.

¹²¹ Addresses Issue A5 on the List of Issues.

¹²² *Tartan*, 1994 WL 762882 (Mo.P.S.C.), *supra*. What is or is not in the public interest is a "matter of policy to be determined by the Commission." *In the Matter of Grain Belt Express*, Report and Order on Remand, File No. EA-2016-0358, 2019 WL 1354055 (Mo. P.S.C.) (Mar. 20, 2019), *citing State ex rel. Pub. Water Supply Dist. V. Pub. Serv. Comm'n*, 600 S.W.2d 147, 154 (Mo. App. W.D.1980). It is within the Commission's discretion to determine when the public interest would be served. *Intercon Gas*, 848 S.W.2d at 597-98.

the environment through air emissions and other problems.¹²³

In that same decision, the Commission concluded as follows:

The Commission also concludes that the Pure Power Program furthers the *policy goal of encouraging renewable energy*. Renewable energy generation provides a direct benefit to the public because it can reduce the problems associated with conventional sources of electricity, such as coal, oil, natural gas, and nuclear....While the Commission highly encourages renewable energy generation, it acknowledges that programs such as the Pure Power Program can also *provide a benefit to the public* by supporting renewable energy (emphasis added).

The Commission has also specifically and expressly found that projects (in the case in question, transmission needed to deliver renewable energy) are “in the public interest because [they are] need to: . . . [p]romote renewable energy.”¹²⁴

Addressing the public interest factor from *Tartan*, the Commission has stated:

Consistent with these state policies, this Commission has in the past expressed strong support for the “development of economical renewable energy sources to provide safe, reliable, and affordable service while improving the environment and reducing the amount of carbon dioxide released into the atmosphere.”

The Grain Belt Project will lower energy production costs in Missouri under future energy scenarios developed by MISO and will have a substantial and favorable effect on the reliability of electric service in Missouri, particularly through its effect on wind diversity in the region. Geographic diversity in wind resources inevitably helps to reduce system variability and uncertainty in regional energy systems. **In addition, the Project will provide positive environmental impacts, since displacement of fossil fuels for wind power will reduce emissions of carbon dioxide, sulfur dioxide, and nitrogen oxide, and reduce water usage in Missouri.**

There can be no debate that our energy future will require more diversity in energy resources, particularly renewable resources. We are witnessing a worldwide, long-term and comprehensive movement towards renewable energy in general and wind energy specifically. Wind energy provides great promise as a source for affordable, reliable, safe, and environmentally friendly energy. The Grain Belt Project will facilitate this movement in Missouri, will thereby benefit

¹²³ *In the Matter of Ameren Missouri's Pure Power Program*, File No. EO-2013-0307, Report & Order, 2013 WL 1960627 (Mo. P.S.C.), Eff. May 1, 2013, Finding of Fact para. 9.

¹²⁴ *In the Matter of Ameren Transmission Company of Illinois*, File No. EA-2015-0146, Report and Order, Eff. Apr. 27, 2016, 2016 WL 1730118 (Mo. P.S.C.).

Missouri citizens, and is, therefore, in the public interest.¹²⁵

Indeed, less than four years ago, the Commission declared that it “is the public policy of this state to diversify the energy supply through the support of renewable and alternative energy sources.”¹²⁶ And the Commission further noted that it “has also previously expressed its general support for renewable energy generation because it provides benefits to the public.”¹²⁷

While this case certainly involves a robust debate about whether the Project is needed – a debate addressed in Section I of the CCN Argument, above – there can be no reasonable argument that the Project does not squarely promote the public interest, as the Commission itself has defined it. Not a single party can credibly dispute,

- that the electricity generated from the Project would not be “environmentally preferable” to electricity generated from fossil-fueled resources;¹²⁸
- that approving the CCN in this case would not “further. . . the policy goal of encouraging renewable energy” or “provide a benefit to the public by supporting renewable energy”;¹²⁹
- That the Project will not reduce emissions throughout MISO’s footprint, providing “substantial benefits to Missouri”;¹³⁰ or
- That the Project would not further the “public policy of this state to diversify the energy supply” or be aligned with the Commission’s “general support for

¹²⁵ *In the Matter of Grain Belt Express*, File No. EA-2016-0358, Report and Order on Remand, Eff. March 20, 2019, 2109 WL 1354055 (Mo. P.S.C.), Section "E. Public Interest" (emphasis added).

¹²⁶ *In the Matter of the Empire District Electric Co.*, File No. EO-2019-0010, Report & Order. *See also* Ex. 12P, Wills Surrebuttal, pp. 8-12, for additional discussion of the Commission’s clear stance on how the addition of renewable energy resources promotes the public interest.

¹²⁷ File No. EO-2019-0010, *supra*, Conclusion of Law, ¶ G.

¹²⁸ File No. EO-2013-0307, *supra*.

¹²⁹ *Id.*

¹³⁰ File No. EA-2015-0146, *supra*, of the Finding of Fact ¶ 29.

renewable energy generation because it provides benefits to the public.”¹³¹

An examination of Staff’s and OPC’s reasons for claiming that the Tartan Factor of public interest has not been satisfied clearly reveals that the basis for those claims is grounded in the arguments they make *about need*. Put another way, the substance of their positions is that because they contend the Project isn’t needed, it is therefore, so they say, not in the public interest. Staff’s position statement on this issue is almost entirely focused on whether the Project will pay for itself, but if the Commission concludes the Project is necessary or convenient for the public service, that issue is, by Staff’s own admission, irrelevant. The Company addresses this issue in greater detail, below. OPC’s position statement on this issue is similar, contending that the public interest factor has not been satisfied based on (a) OPC’s claim that the Project isn’t needed (because OPC ignores the reason it is needed and focuses on a different need), and (b) that the evidence does not prove the Project will pay for itself. Again, if the Commission concludes the Project is necessary or convenient for the public service, both of OPC’s claims are irrelevant.

If the factors of “need” and “public interest” were the same, *Tartan* would not have set them out separately. Fair enough: Staff and OPC argue the Project isn’t needed, but if the Commission concludes otherwise, and respectfully it should for the reasons discussed in Section I of the CCN Argument, above, the question of whether the Project is in the public interest is an easy one: it is, for reasons the Commission itself has repeatedly recognized.

Not only does the Project clearly promote the public interest in the express ways the Commission itself has defined, but it promotes the public interest in another way: it meets the needs of its subscribing customers in the RSP in a way that under all plausible scenarios, reduces

¹³¹ File No. EA-2019-0010, *supra*.

the cost of this otherwise needed Project for *all* customers. To have the RSP the Company must have the Project. No party presents any serious challenge to testimony given by Company Economic Development Director Rob Dixon indicating that meeting commercial and industrial customers' need to be served by renewable energy is critical to allow the state of Missouri to compete for new and expanded businesses. No one seriously challenges Director Dixon's conclusion that attracting such business is beneficial in creating jobs, taxes, economic development activity, and increased loads over which to spread the Company's fixed costs. When asked if these benefits were muted since the Project was located in Illinois, Director Dixon unequivocally indicated that the answer is "no," because what the Company's customers need – and by definition all those customers are Missouri customers – is to have a cleaner generation mix from Ameren Missouri.¹³² Retiring the RECs for the Project owned by Ameren Missouri on these customers' behalf, which will give them the right to claim their environmental attributes, does just that regardless of where the Project is located. There can be little doubt but that the public interest is promoted by meeting the needs of these customers, by bringing benefits to the state by doing so, and by lowering the cost of an otherwise needed resource in the process.¹³³

¹³² Tr., p. 156, l. 10 – p. 157, l. 11. OPC witness Geoff Marke confirmed that customers with Missouri operations will receive the renewable attributes from the Project and count them toward their renewable goals, regardless of the Project's location in Illinois. Tr. p. 353, ll. 5-17.

¹³³ That renewable resources such as the Project are in the public interest is further exemplified by the focus on ESG (environmental, social, governance) investing, which assesses investment opportunities through a broad public interest lens that includes consideration of generation resource transition to reduce greenhouse gas and other emissions and their impacts on underserved or disadvantaged communities, among other things. As discussed in the Roland Berger report included with the Company' 2022 Change in PRP, financing costs if utilities fail to meaningfully invest in cleaner resources could be significantly higher, to the detriment of customers. Roland Berger estimated this higher cost to be \$292 million on a NPVRR basis. Ex. 3, Schedule MRM-D2, p. 24, Table 6.

V. WHAT CONDITIONS ON THE CCN ARE APPROPRIATE?¹³⁴

i. Five of Staff's Recommended Conditions, with modifications, are reasonable.

The following four conditions are reasonable to impose on the CCN:

1) Ameren Missouri shall file with the Commission as-built drawings for the Project within 100 days after the "Final Completion Deadline," as defined in the BTA, provided, that if Invenergy is excused under the terms of the BTA from providing certain as-built drawings by that deadline Ameren Missouri will file such as-built drawings within 10 days after receipt thereof from Invenergy. Ameren Missouri will notify the Staff within 10-days after the Final Completion Deadline if there are any as-built drawings for which Invenergy was excused from delivering by that deadline;¹³⁵

2) the in-service criteria referenced by Staff as confidential attachment SEL-3 and confidential attachment SEL-4 to Shawn Lange's rebuttal testimony, should be used in a future general rate case to determine whether the Project is in-service;¹³⁶

3) Ameren Missouri shall file with the Commission the final version of the plans for restoration of safe and adequate service no later than 60 days after the site is commercially operational; and

4) Ameren Missouri shall file with the Commission quarterly progress reports on the plans and specifications for the Project, and the first report shall be due on the first date of the first calendar quarter beginning after the CCN is issued.¹³⁷

¹³⁴ Address Issue B from the List of Issues.

¹³⁵ See Ex. No. 14, to which Staff, the party proposing the original condition relating to as-built drawings, does not object.

¹³⁶ Ex. 2P, Ajay Arora Surrebuttal Testimony, p. 34, ll. 13 – 18.

¹³⁷ *Id.*, p. 34, l. 212 – p. 35, l. 3.

A condition respecting IEEE standard P2800, if modified as outlined in Company witness Arora's Surrebuttal Testimony, would also be reasonable. Witness Arora's modified condition regarding IEEE standard P2800 would match exactly the condition on the same topic agreed upon between the Staff and the Company and ordered by the Commission in the Huck Finn case.¹³⁸

ii. *Two of Staff's Recommended Conditions Should be Rejected.*

a. Staff's Hold Harmless Condition is Completely Inappropriate.

Based entirely on its contention that the Project is not needed, Staff wants the Commission to condition the grant of a CCN on an agreement by the Company to "hold harmless" customers from every dollar of revenue requirement not covered by the Project's revenues. As Staff itself admits, such a condition would be completely inappropriate for any resource that the Commission determines is needed. That this is true is unambiguously demonstrated by Staff's own testimony.

In a misplaced attempt to equate the Company's justification for the Project to the reason an independent power producer would proceed with a project, Staff witness J Luebbert observes:

Once the need is established and the project is determined to promote the public interest based upon the best information available at the time, it is reasonable for the ratepayers to assume the risk that the project selected is uneconomic. This assumption of risk is justified because absent the load of the ratepayers, the utility would not be obligated to invest in additional resources.¹³⁹

The Company agrees with witness Luebbert's statement. If the Commission appropriately finds that the Project is needed, a finding that it should make as discussed in Section I of the CCN Argument, above, then Staff is right: customers will (and should) assume the economic risks (and benefits) associated with it, just as they do and have with respect to all the other resources used to

¹³⁸ *Id.*, p. 33, l. 8 – 13.

¹³⁹ Ex. 105, J Luebbert Rebuttal Testimony, p. 10, ll. 6 – 10.

serve them.

Staff finds this reality, based in its own words, inconvenient, as evidenced by Staff counsel's attempt to run from the principle witness Luebbert articulated, during Staff counsel's cross-examination of Company witness Wills. After painstakingly reading various passages from Staff witness Luebbert's rebuttal testimony into the record, Staff attempted to suggest that witness Luebbert's testimony did not actually mean what it says. Any fair reading of the exchange demonstrates that the attempt failed:

Q. Mr. Wills, is that what Mr. Luebbert said in providing the rest of the text of his answer that you quoted one sentence from?

A. Well, I – again, I didn't quote that one sentence. But what I will tell you is I think this whole statement still supports exactly what I said. The question you read is are there solutions to unnecessary risks to rate payers. We are making the case this is necessary. So I don't think that the question is relevant to the way I – our disagreement with Staff is whether this is necessary, right. But I'm putting forth to the Commission that this is necessary. If that's the case, I don't care what the sentence says about what you do with unnecessary risks, there aren't any.¹⁴⁰

After another attempt to make its point, Company witness Wills had this to say:

Q. [By Staff, after asking witness Wills about familiarity with the Tartan Factors] The need is not so great that it would make economic sense for the Company to share any part of the risk?

A. I'd say it the other way that the need *is* so great it wouldn't make sense for us to share in the economic risk for it (emphasis added).¹⁴¹

It should be obvious to the Commission why Company witness Wills' answers were spot-on. If a utility comes to the Commission and seeks permission under the CCN statute, and the Commission concludes that the project at issue is necessary or convenient for the public

¹⁴⁰ Tr., p. 263, ll. 6 – 17.

¹⁴¹ Tr., p. 214, ll. 11 – 14.

service, then in what rate regulated world would it be appropriate for the utility to have to guarantee the economics of the resource it needs to build – a need confirmed by the Commission – to serve its customers? As Company witness Wills also testified, if a generating unit performs much better in the market than predicted when the Commission concluded it was necessary or convenient, the Company isn't going to keep the extra benefit. That benefit will flow back to customers. In Company witness Wills' words:

So basically the economic risk of the unit can benefit customers. And nobody's asking us to, you know, take away the benefit but they are asking us to ensure the down side. So [in the case of a hold harmless] we would be providing insurance for no upside and the customers would get the benefits.¹⁴²

Put another way, as Company witness Wills explained earlier in the evidentiary hearing in response to the question of whether the Company would move forward with the Project if risk sharing were a condition of doing so:

No, we would not. There's really no economic litmus test for a needed project in terms of paying for itself. I mean, with anything that we need to provide service. So for example, the transformer hanging outside my house, the transformer hanging outside your house, it doesn't provide revenues but it's needed to provide service. The costs of that are reflected in the revenue requirements that are used to set rates. The Boomtown facility it needed to provide service. Now, the fact that it can provide market revenues is great and it actually might pay for itself. But there's really no reason that the Company would assume the risk that it will pay for itself when it's a needed asset we have to invest in for the benefit of our customers.¹⁴³

Finally, as Company witness Wills discussed with Chairman Rupp, “the really important difference here is irrespective of this program we brought this resource [to the Commission for approval] because it's a needed part of our forward looking generation portfolio to serve customers.”¹⁴⁴ Witness Wills went on to explain that risk sharing (or hold harmless provisions,

¹⁴² Tr., p. 274, l. 25 – p. 275, l. 5.

¹⁴³ Tr., p. 213, l. 20 – p. 214, l. 10.

¹⁴⁴ Tr., p. 218, ll. 8 – 12.

which don't share risk but simply impose it on the utility) don't apply to other generation resources, and to apply one here would subject this resource – a renewable resource – to “second class” status in terms of cost recovery.¹⁴⁵

Respectfully, the Company is confident that the Commission can certainly understand why Company witness Wills also testified that if the Commission does not believe the Project is necessary and conditions a CCN on a hold harmless arrangement, turning the Company into a revenue insurer, the Company will not proceed to build the Project.¹⁴⁶

VI. THE MANY OTHER ARGUMENTS MADE BY STAFF (AND IN SOME CASES OPC), LARGELY IN AN ATTEMPT TO BOLSTER THEIR CONTENTION THAT THE PROJECT IS NOT NEEDED, DO NOT WITHSTAND SCRUTINY.

Staff's rebuttal testimony (and arguments of its counsel at hearing) is replete with thinly supported or unsupported contentions that, fairly read, are intended to sow doubt in the Commission's mind about whether the Project is needed. However, to put it colloquially, they simply don't hold water.

- i. The Company's addition of renewables will indeed make the energy pool in MISO, from which the Company acquires energy to meet 100% of its load, greener.*

Staff witness Stahlman claims that adding the Project to the Company's generation portfolio will “not necessarily” result in Ameren Missouri customers being served by cleaner resources.¹⁴⁷ The point is both wrong and nonsensical,¹⁴⁸ as the Commission has clearly recognized: “Mark Twain would also reduce emissions of carbon dioxide (CO”) throughout the

¹⁴⁵ Tr., p. 218, ll. 12 – 17. Chairman Rupp's specific question was focused on OPC's 50/50 sharing proposal, which is tied to approval of the RSP and not the resource alone, but the point holds: the resource is proposed to be built and is needed irrespective of the RSP. Hold harmless/risk-sharing conditions are not appropriate in those circumstances.

¹⁴⁶ Tr., p. 264, ll. 19 - 25.

¹⁴⁷ Ex. 106, Stahlman Rebuttal, p. 2, ll. 8 – 10.

¹⁴⁸ Ex. 12P, Wills Surrebuttal, p. 13, l. 16 – p. 14,

MISO footprint [and NOx and SO2 and mercury] . . .”;¹⁴⁹ “In addition, the Project will provide positive environmental impacts, since displacement of fossil fuels for wind power [and solar] will reduce emissions...”¹⁵⁰ Since it is undisputed that Ameren Missouri serves its entire load with energy from MISO, as the Commission recognizes as just noted,

[e]ven if one takes the narrow view that customers are served by a “slice” of the total energy produced by generators in MISO, *any* increase in renewable generation will result in the displacement of dispatchable generation (almost certainly fossil generation, and at the very least partially fossil generation) somewhere in the MISO market. This necessarily means that that the total energy produced in MISO will be “cleaner” and that the share purchased to serve Ameren Missouri customers will be cleaner as well (emphasis added).¹⁵¹

Sierra Club witness Shenstone-Harris also explains this elementary principle in detail:

Those MWh [from the Project] . . . will necessarily result in the reduction of MWh generated from the most expensive resources on the system. Those displaced MWh will generally come from expensive and aging oil, gas, and coal generators * * * these zero marginal cost resources will displace energy from the costliest fossil resources...¹⁵²

ii. It is equally nonsensical to claim that waiting to add renewable resources until later will not contribute to achieving lower carbon emissions later.

Staff witness Stahlman next claims (based upon the flawed assumption that the Project will only have a 20-year life) that the Project would not contribute to a 2045 goal to reach net zero carbon emissions.¹⁵³ First, all of the evidence in the case is that the Project is expected to have a life of 30 years or more.¹⁵⁴ More importantly, every MWh of energy produced by the Project

¹⁴⁹ File No. EA-2015-0146, *supra*. Mark Twain, of course, would enable new renewable development in Missouri and those renewable facilities would, naturally, produce no emissions.

¹⁵⁰ File NO. EA-2016-0358, *supra* (Grain Belt, like Mark Twain, would allow greater renewable energy to be produced in MISO).

¹⁵¹ Ex. 4, Matt Michels Surrebuttal Testimony, p. 44, ll. 4-9.

¹⁵² Ex. 500, Sarah Shenstone-Harris Surrebuttal, p. 10, ll. 6-12. As witness Shenstone-Harris also notes, Staff witness Stahlman’s claim is then contradicted by another claim made by Staff witness Lange, which is addressed in more detail below. *Id.*, p. 26, ll. 11 – 18.

¹⁵³ Ex. 106, Michael Stahlman Rebuttal Testimony, p. 10, ll. 16 – 18.

¹⁵⁴ Ex. 12P, Steven Wills Surrebuttal Testimony, p. 15, ll. 5-16.

between its in-service date (e.g., late 2024/early 2025) until 2045 obviously will be a carbon free MWh of energy and adding more renewables sooner will, cumulatively, result in far less carbon emissions than if, as Stahlman implies, we wait until the year targeted by the goal (2045) to add them.¹⁵⁵

iii. Adding the Project does not amount to customers funding either the Company's, or the RSP subscribers' renewable goals.

Grasping for yet another reason to deny the CCN, witness Stahlman claims that the Company is asking customers to fund renewable goals. The claim is false. The Project will be a necessary resource, serving all customers, that will produce carbon free energy (and be reflected in revenue requirements) just as all the Company's other non-emitting facilities – Callaway, Osage, Keokuk, O'Fallon – do.¹⁵⁶

Its renewable energy credits (“RECs”) would, in the absence of the RSP, belong to Ameren Missouri, meaning Ameren Missouri would own the environmental attributes associated with the energy the Project will produce, and could retire them and thus contribute to the greening of its fleet; with the RSP the RECs would be retired on behalf of Ameren Missouri's customers, but this too will contribute to the greening of Ameren Missouri's fleet since those retirements are for Ameren Missouri customers in Missouri. Effectively, under the RSP, subscribers would buy the RECS at a fixed price over the next 15 years.¹⁵⁷

iv. The idea that the Illinois legislature would impose legislation that would require the Project to stop producing emission-free energy is not only speculative but is simply not credible.

Staff next points to Illinois legislation that is requiring Company *fossil-fueled* generation located in Illinois to produce less emissions and ultimately to retire sooner than planned and

¹⁵⁵ *Id.*, p. 15, l. 17 – p. 18, l. 13.

¹⁵⁶ *Id.*, p. 16, ll. 14-21.

¹⁵⁷ *Tr.*, p. 215, ll. 9 – 25.

implies that this somehow poses a threat to the Project’s operations, suggesting this is yet another reason to reject the CCN request. While it is possible – anything is – that Illinois (or Missouri, or any other state)¹⁵⁸ – might restrict future use of land (probably farmland) for solar development, the idea that a state that has acted to reduce emissions, that is located in a MISO zone that is short capacity, and that is restructured and thus is 100% exposed to market power prices (when renewables have zero marginal costs to generate) but would nonetheless act to shut down an already built resource (which is what the Project will be, by the end of 2024), is simply not credible. Company witness Wills cogently explains why in his surrebuttal testimony.¹⁵⁹

v. *The Company has not failed to properly “coordinate” with MISO respecting the addition of renewables.*

Staff witness Lange includes a MISO-issued paper as Schedule SEL-2 to his rebuttal testimony, links to certain other documents, then expresses Staff’s “concern” that “Ameren Missouri’s approach [to adding renewables] lacks the level of coordination referenced by MISO...”¹⁶⁰

The principal MISO document relied upon by witness Lange is one that states that once renewable penetration in MISO reaches 30-40%, planning and operating the grid will become “significantly more complex and challenging.”¹⁶¹ That same document notes that that at penetrations of 50% or higher, there needs to be “close coordination.”¹⁶² The Company takes MISO’s observations at face value, and assumes they are true. They are, however, irrelevant to this case. They are irrelevant since MISO is nowhere near 30-40% of renewable penetration, let

¹⁵⁸ Tr., p. 248, l. 21 – p. 249, l. 6.

¹⁵⁹ Ex. 12P, p. 17, l. 1-22. Witness Stahlman’s other point about the Illinois location is also speculative. As Company witness Wills indicated: “The barriers to leaving MISO are already significant. The benefits of having renewable generation in Illinois – by creating increasing geographic diversity . . . far outweigh any risks associated with the unlikely scenario where the Company sought to exit the MISO market.” *Id.*, p. 18, ll. 9-12.

¹⁶⁰ Ex.104, Shaw Lange Rebuttal Testimony, p. 11, ll. 1-5.

¹⁶¹ *Id.*, p. 10, l. 15 -17.

¹⁶² *Id.*, Sch. SEL-2 to Shawn Lange Rebuttal Testimony, discussed by witness Lange at p. 10.

alone 50%, and will not be when the Project is added, or for an extended of period of time thereafter.¹⁶³ The Company has every intent of continuing – and building upon – its already close level of coordination with MISO, especially as renewable penetrations reach higher levels.¹⁶⁴ Therefore Staff's "concern" around this issue is irrelevant at this time, inconsistent with the Company's intent going forward, and is premature given the low penetration levels in MISO at this time. As Company witness Wills puts it, points like this “effectively do little more than to create confusion or opposition around Boomtown, or renewables more generally.”¹⁶⁵

vi. *The Company Should Rely on its IRP, which is Not a Mere “Modeling Exercise.”*

As discussed earlier in this brief, the Company’s proposal to add the Project and ultimately, additional wind and solar resources, as reflected in its IRP in general and its 2022 PRP specifically, is not at all “unprecedented.” Staff is wrong about that point, as the evidence in this case squarely shows. And Staff is wrong about another point, that is, that the Company’s IRP is a mere “modeling exercise” and in effect shouldn’t be relied upon to any material degree to support a CCN application for the Project.

The Company filed its PRP less than a month before it filed this CCN application.¹⁶⁶ The application is both part of the Company’s Resource Acquisition Strategy and falls within the implementation period, as called for by the Commission’s resource planning rules.¹⁶⁷ The PRP analyzes and explains the necessary risk mitigations discussed in Section I of the CCN Argument, above.¹⁶⁸ It examines the financial impact of the PRP, which calls for adding both solar resources (like the Project) and wind resources, while the Company’s remaining dispatchable coal-fired

¹⁶³ Tr., p.378, l. 14 – p. 384, 1; Tr., p. 357, l. 8- 12. 7

¹⁶⁴ Ex. 4, Matt Michels Surrebuttal Testimony, p. 27, ll. 10 – 23.

¹⁶⁵ Ex. 12P, p. 13, l. 11-15.

¹⁶⁶ The Company filed its Application in this case on July 14, 2023 (EFIS Item. No. 9) and the Notice of Change of Preferred Plan on June 22, 2022 (Ex. 3, Matt Michels Direct Testimony, Schedule MM-D2).

¹⁶⁷ 20 CSR 4240-22.020(25), (51).

¹⁶⁸ Ex. 3, Matt Michels Direct Testimony, Sch. MRM D-2.

generation continues to operate to backstop the renewables from a reliability standpoint, demonstrating that the approach reflected in the PRP is estimated to save customers more than \$600 million on a NPVRR basis versus the approach essentially reflected by the definition of “need” adhered to by opponents of the CCN.¹⁶⁹ Staff essentially completely ignored it, offering no analysis, no conclusions, no criticisms.¹⁷⁰ The idea that this is all simply a “modeling exercise” that provides little support for the application in this case is not supported by the resource planning rules or the record. Company witness Michels elaborates on these points in his surrebuttal testimony.¹⁷¹

Staff tries to bolster its “modeling exercise” claim by suggesting that utilities generally, and Ameren Missouri specifically, have recently started a “practice” of relying on the IRP to justify generation additions.¹⁷² To the extent that is true, it is because until recently, there simply had been no significant generation additions (apart from meeting minimum legal requirements, i.e., the RES) called for by the IRP until well beyond the then-current implementation period.¹⁷³ It had been “business as usual” before.¹⁷⁴ It no longer is, as discussed length in Section I of the CCN Argument.

As Company witness Michels puts it, “Rather than being concerned about utilities bringing forward projects and resource decisions that are consistent with the plans they file with the Commission, it should be recognized in a positive manner that such actions are consistent with the fact that the Commission has clearly indicated [via its resource planning rules] that utilities do exactly that.”¹⁷⁵

¹⁶⁹ Ex. 4, Matt Michels Surrebuttal Testimony, p. 27, ll. 4 – 8

¹⁷⁰ Ex. 4, Matt Michels Surrebuttal Testimony, p. 8, l 15 – p. 9, l. 5.

¹⁷¹ Ex. 3, Matt Michels Surrebuttal Testimony, pp. 3 – 8.

¹⁷² Ex. 102, Brad Fortson Rebuttal Testimony, p. 12, l. 2.

¹⁷³ Tr., p. 418, l. 2 – 22.

¹⁷⁴ Tr., p. 418, l. 23 – p. 419, l. 22.

¹⁷⁵ Ex. 4, p. 6, l. 14-18, and page 6 generally.

vii. *Staff's after-the-fact analysis of the modeled economics of the Project if Production Tax Credits ("PTCs") were utilized is irrelevant.*

The Company has testified that the Project is in an energy community, within the meaning of the IRA, and that it expects to utilize the ITC because doing so is more favorable for its customers.¹⁷⁶ The Company has testified that it may not need to use a tax equity partner to utilize the ITC, if the Internal Revenue Service clarifies that it can give its customers the benefit of the ITC now instead of having to normalize it over 30-years as was clearly required prior to the IRA.¹⁷⁷ Regardless, the Company has testified that if it needs to use a tax equity partner to maximize the ITC benefits for customers it will return to the Commission for permissions it needs to do so.¹⁷⁸ The Company will seek to use the tax strategy that is best for its customers, and no party claims otherwise.¹⁷⁹

In yet another clear attempt to cloud the key issue in this case – the key issue being *has the Company met its burden to show that it is more likely than not that the Project is necessary or convenient for the public service* – Staff introduced modeled results (Exhibit 112) during redirect examination when no party has any opportunity to question it,¹⁸⁰ using PTC workpapers seemingly to show that at the updated cost estimate using PTCs, each scenario examined would have a positive (a cost) NPVRR.

It is not clear what Staff hoped to accomplish in producing these additional modeled results. First, the Company had already provided all parties with modeled base case results, at a variety of

¹⁷⁶ Ex. 9P, Lindsey Forsberg Surrebuttal Testimony, pp. 4 – 5.

¹⁷⁷ Tr., p. 171, ll. 4 – 18.

¹⁷⁸ Ex. 12P, Steven Wills Surrebuttal Testimony, p. 51, ll. 4 – 16.

¹⁷⁹ See, e.g., Tr., p. 478, l. 21 – p. 479, l. 11 (Staff indicating it had no reason to believe the Company would not do so).

¹⁸⁰ The Company's objection to it was overruled, albeit the Presiding Officer indicated that he saw the Company's point and that the Commission would take it into consideration in connection with the exhibit. Tr, p. 448, l. 14 – p. 449, l. 1.

project costs, showing NPVRR impacts under both ITC and PTC scenarios.¹⁸¹ The additional modeled results produced in Exhibit 112, even if correct, only further support the Company's assertion that the ITC is more favorable for customers. This conclusion hardly requires complex modeling on the part of the Staff – simply multiplying the expected project cost by the increased ITC level of 40% gives an indication of the value of the ITC, as earlier demonstrated. When compared to the modeled value of the PTC – even with the energy community boost applied – it is straightforward to see that this value is higher by a large margin. Second, the Project is needed and therefore if it has a positive NPVRR over 30 years, then it has a positive NPVRR over 30 years. Since the case was filed, the Company has been transparent about this reality, presenting a variety of modeling scenarios – some showing a positive NPVRR, some showing a negative NPVRR. Said simply, providing service comes at a cost. Third, no one – including the Staff – can say with a high level of certainty whether the NPVRR over 30 years will, or will not be, positive given the obvious fact that the future is uncertain. However, the record reflects cases where the project revenue requirements are a net cost and a net benefit so while there may be a net cost the facility may also pay for itself.

FACTS PERTAINING TO THE RENEWABLE SOLUTIONS PROGRAM

The RSP is a new, voluntary renewable energy subscription program for large commercial and industrial customers, including government accounts, under which RECs generated by the associated renewable energy resource are retired on behalf of subscribing customers.¹⁸² Leveraging lessons learned from the Company's Renewable Choice program's lack of successful

¹⁸¹ Cf. Ex. 8, Lindsey Forsberg Supplemental Direct Testimony (presenting modeling results using the PTC) to Ex. 9, Lindsey Forsberg Surrebuttal Testimony (modeling the use of the ITC). Ex. 7, Lindsey Forsberg Direct Testimony, had also presented ITC modeling when the Company was under the assumption that the ITC would only be 30%, that is, before the determination that the Project was in an “energy community” had been made.

¹⁸² Ex. 11P, Steven Wills Direct Testimony, p. 2, ll. 20 – 22 & Tr. at p. 305, 1 – p. 306, l. 13.

enrollment and feedback from potential subscribers, the Program balances the goal of being as subscriber-friendly as possible with the goal of producing net benefits for non-subscribers by starting with binding commitments from customers and a set pricing model for customers.¹⁸³ Phase 1 of the Program, which is to be served by the Project resource, is fully subscribed with binding, 15-year agreements from ten customers/subscribers, including Walmart and Bayer.¹⁸⁴ If subscribing customers desire to exit the Program before the end of the 15-year term, those agreements require a termination fee to be paid to protect non-subscribing customers if a subscriber cannot find a new customer to take over their subscription.¹⁸⁵

RSP pricing is designed as a rider so that the subscribers will continue to pay all their general rates and other applicable rider rates, but in addition will pay a premium for the renewable energy attributes under the Program.¹⁸⁶ The Program rider features a fixed monthly capacity charge referred to as the "Renewable Resource Charge" and a variable monthly credit applied to the actual amount of renewable energy generated by the subscriber's share of the resource referred to as the "Renewable Benefits Credit."¹⁸⁷ By evaluating the net premium (the net of the Renewable Resource Charge and the Renewable Benefits Credit) under a variety of generation scenarios, the Company confirmed that the net premium to be paid by subscribers is in line with the implied subscriber cost per REC generated by the renewable resource.¹⁸⁸ In other words, the Program pricing locks in the value of the RECs for the 15-year term of the Program agreement that is in line with current market prices of RECs.¹⁸⁹ Parties generally believe that the value of RECs will

¹⁸³ Ex. 11P, Steven Wills Direct Testimony, p. 5, l. 3 – 20 & p. 19, ll. 7 – 10.

¹⁸⁴ Ex. 11P, Steven Wills Direct Testimony, p. 19, l. 1; Ex. 400, Andrew Teague Rebuttal Testimony, p. 5, ll. 1 – 5; & Ex. 302, Mark Schuerman Surrebuttal Testimony, p. 2, ll. 5 – 6.

¹⁸⁵ Ex. 11P, Steven Wills Direct Testimony, p. 19, ll. 13 – 19 & Tr. p. 223, l. 12 – p. 224, l. 10.

¹⁸⁶ Ex. 11P, Steven Wills Direct Testimony, p. 6, ll. 7 – 12; Tr. at p. 293, l. 14 – p. 294, l. 2.

¹⁸⁷ Ex. 11P, Steven Will Direct Testimony, p. 6, ll. 12 – p. 7, l. 11.

¹⁸⁸ Ex. 11P, Steven Will Direct Testimony, p. 18, ll. 5 – p. 19, l. 3.

¹⁸⁹ Tr., p. 215, l. 9 – p. 216, l. 11.

vary, and likely decrease, in the future as more renewable energy generation resources come online, so having a locked-in, pre-determined value of RECs is a benefit to non-subscribing customers.¹⁹⁰

Under no plausible scenario will the Program fail to produce benefits for non-subscribers.¹⁹¹ Under the most updated estimates, Phase 1 of the Program is estimated to yield affordability benefits by reducing future revenue requirements in the amount of \$11.7 million to \$27.8 million on a net present value basis.¹⁹² To ensure that all of the affordability benefits actually accrue to all customers, the Company asks the Commission to authorize a tracker whereby the Company would track all Program revenues (based on the net bill of subscribers reflecting charges and credits) so that those can be reflected in base rates (lowering future revenue requirements) through an amortization in future rate proceedings.¹⁹³

The Program is designed to allow expansion to meet all large customers' demands for renewable energy options via future phases. For Phase 1, the Company had a total of 269 megawatts ("MW") of demand among the 20 customers solicited, but the Phase 1 resource (the Project) was limited to 150 MW.¹⁹⁴ The Program is accordingly quite different from the Solar Partnership Pilot pursued by Ameren Missouri in its Application for a CCN in File No. EA-2016-0208, which ended with a dismissal of OPC's appeal and agreement for a single solar partnership CCN.¹⁹⁵

¹⁹⁰ Tr., p. 238, l. 20 – p. 240, l. 11; p. 336, ll. 4 – 16; p. 356, ll. 5 – 22; & p. 490, ll. 16 – 24.

¹⁹¹ Ex. 12P, Steven Wills Surrebuttal Testimony, p. 37, ll. 14 – 17.

¹⁹² Ex. 9P, Lindsey Forsberg Surrebuttal Testimony, p. 4, l. 13 – p. 5, l. 9 & Tr. at p. 198, ll. 4 – 15.

¹⁹³ Ex. 11P, Steven Wills Direct Testimony, p.20, l. 17 – p. 21, l. 5.

¹⁹⁴ Ex. 11P, Steven Wills Direct Testimony, p. 20, ll. 1 – 12.

¹⁹⁵ Chairman Rupp inquired about Ameren Missouri's Solar Partnership program when questioning Company witness Wills. See Tr. at p. 220, l. 23 – p. 221, l. 22. Chairman Rupp also inquired about Ameren Missouri's Solar Partnership program when questioning Staff witness Cedric Cunigan, and counsel for the Company recommended judicial notice be taken of the docket wherein its Solar Partnership program was approved, File No. EA-2016-0208. See Tr. at p. 436, l. 8 – p. 464, l. 11.

ARGUMENT – THE RSP

I. THIS IS AN APPROPRIATE PROCEEDING FOR THE COMMISSION TO REVIEW AMEREN MISSOURI'S RSP, AND OPC'S SUGGESTION TO SEPARATE REVIEW OF THE PROGRAM FROM THE CCN SHOULD BE FLATLY REJECTED.¹⁹⁶

Under Section 393.140(11) RSMo. (2016), the Commission has general authority to review any new tariffed programs and associated charges, such as the Renewable Solutions Program and its associated pricing. The Company's current Community Solar Pilot program and current Renewable Choice program, which are renewable energy subscription programs, were both reviewed and approved outside of a general rate case proceeding.¹⁹⁷ There is no Missouri statute, Commission rule, or other authority that requires a separate proceeding for review of the Program distinct from seeking a CCN.

OPC is the only party to suggest that this is not an appropriate proceeding for the Commission to review the Program. OPC does not cite to any authority that requires a separate proceeding, but rather, OPC witness Dr. Marke suggests that the Company's pending electric rate case, File No. ER-2022-0337, is a "better venue" for review of the Program because the cost of service data used to establish the Renewable Benefits Credit is expected to be updated in the pending case.¹⁹⁸ Practically speaking, Dr. Marke's suggestion ignores the fact that the Company's pending electric rate case is on a different (later) procedural schedule than this case.¹⁹⁹ Also, separating the review of the Program and the CCN would not present the Commission with the

¹⁹⁶ Addresses Issue C from the List of Issues.

¹⁹⁷ The Community Solar Pilot program was reviewed and approved in File No. ET-2020-0022. The Renewable Choice program was reviewed and approved in File No. ET-2016-0063. Company witness Lindsey J. Forsberg describes the Community Solar Pilot program and Renewable Choice program in her direct testimony, Exhibit 7P, at p. 4, ll. 15 – 21, p. 5, ll. 6 – 11, fn 3 & fn 5.

¹⁹⁸ Ex. 200, Dr. Geoff Marke Direct Testimony, p. 9, ll. 4 – 8.

¹⁹⁹ File No. ER-2022-0337, Order Setting Procedural Schedule and Adopting Test Year, at pp. 2 – 4. Under the Procedural Schedule in File No. ER-2022-0337, a Commission order would not be expected until June 2023 at the earliest. In Ameren Missouri's Application in this case, the Company requested an order granting the relief requested in the Application by March 31, 2023. See File No. EA-2022-0245, Ameren Missouri's Application, at p. 18.

full relationship of the Program and the Project. The Project is proposed to be the resource dedicated to Phase 1 of the Program. Company witness Lindsey Forsberg's modeling demonstrates that the Program, when coupled with the Project that is already needed and in the public interest as discussed in prior sections, unquestionably makes the Project even more cost-effective.²⁰⁰ Divorcing review of the Project from review of the Program into different dockets would be inefficient and cumulative.

Furthermore, although the Company continues to stand behind the veracity of the cost of service data from the Company's prior electric rate case, File No. ER-2021-0240, OPC seems to misunderstand how the data was used in the developing Program pricing — the cost of service data was used to ensure the Renewable Benefits Credit was grounded in costs and not to precisely capture historical cost of service.²⁰¹ The Renewable Benefits Credit was further evaluated under, and succeeded under, the ultimate test of reasonableness by having subscribers contribute affordability benefits for the benefit of all customers while being at a level that attracted enough willing subscribers to create that affordability benefit.²⁰² By evaluating the net subscription premium for the Program (the net of the Renewable Resource Charge and the Renewable Benefits Credit) under a variety of generation scenarios, the Company further confirmed that the net premium to be paid by subscribers is in line with the implied subscriber cost per REC generated by the renewable resource.²⁰³

²⁰⁰ Ex. 7P, Lindsey Forsberg Direct Testimony, p. 17, l. 7 – p. 18, l. 18; Exhibit 9P, Lindsey Forsberg Surrebuttal Testimony, p. 4, l. 13 – p. 5, l. 9 & Highly Confidential Schedule LJF-S2.

²⁰¹ Ex. 12P. Steven Wills Surrebuttal Testimony, p. 46, ll. 9 – 13 & ll. 18 – 22 & File No. ER-2021-0240, Report & Order, at p. 23, effective February 12, 2022 (Commission finding: "For purposes of this case, the Commission finds that Ameren Missouri's class cost of service study offers a reasonable estimation of class cost of service.")

²⁰² *Id.* at p. 46, ll. 13 – 16.

²⁰³ See footnotes 188, 189 & 190.

Moreover, changing the Program pricing would risk the significant affordability benefit (estimated to be tens of millions of dollars on a NPVRR basis) provided by the subscribers given that changes to the tariff would relieve subscribers of their binding commitment to the Program.²⁰⁴

II. THE COMMISSION SHOULD APPROVE THE RENEWABLE SOLUTIONS PROGRAM PROPOSED BY AMEREN MISSOURI, BECAUSE IT CREATES A WIN-WIN PROPOSITION FOR ALL CUSTOMERS.²⁰⁵

The RSP presents a resounding win-win proposition for all customers²⁰⁶ for the following reasons:

- Satisfying actual meaningful demand for renewable energy options by large customers who seek to meet their corporate sustainability goals and crucially have the associated RECs retired on the subscribing customers' behalf;²⁰⁷
- Placing an "open for business" sign on Ameren Missouri's service territory to help make Missouri attractive for economic development;²⁰⁸
- Providing affordability benefits to all Ameren Missouri customers, including non-subscribing customers, by lowering the cost of renewable energy projects that support the Company's generation portfolio transition — projected to be tens of millions of dollars for Phase 1 of the Program;²⁰⁹
- Producing benefits for non-subscribing Ameren Missouri customers by reducing the underperformance risk for planned renewable energy resource additions;²¹⁰ and
- Monetizing the RECs through subscriber net revenues and correspondingly ensuring that the Company's load is in fact being served by cleaner resources by having associated RECs retired on subscribing customers' behalf.²¹¹

²⁰⁴ As provided for in the agreements included in Schedule LJF-D1 to Ex. 7C (Forsberg Direct). Note that the pricing for Phase I is the only pricing being established in this docket. Future phases would be subject to the requirement that the Company submit a future phase rate sheet for Commission approval.

²⁰⁵ Addresses Issue C1 from the List of Issues.

²⁰⁶ Ex. 12P, Steven Wills Surrebuttal Testimony, p. 37, ll. 1 – 2 & Exhibit 301, Maurice Brubaker Surrebuttal Testimony, p. 9, l. 8 – p. 10, l. 5.

²⁰⁷ Ex. 7P, Lindsey Forsberg Direct Testimony, p. 3, ll. 3 – 5 & p. 5, l. 14 – p. 7, l. 3.

²⁰⁸ Ex. 6P, Robert Dixon Surrebuttal Testimony, p. 22, ll. 14 – 22.

²⁰⁹ Ex. 7P, Lindsey Forsberg Direct Testimony, p. 3, ll. 5 – 6 & Exhibit 9P, Lindsey Forsberg Surrebuttal Testimony, Table 2, p. 5, "RSP Benefit" row.

²¹⁰ Ex. 7P, Lindsey Forsberg Direct Testimony, p. 3, ll. 7 & Exhibit 12P, Steven Wills Surrebuttal Testimony, p. 39, l. 5 – p. 41, l. 7.

²¹¹ Ex. 12P, Steve Wills Surrebuttal Testimony, p. 43, l. 6 – p. 45, l. 8.

Any single reason in the list above alone justifies approving the Program; when taken collectively, the reasons listed overwhelmingly support approval of the RSP.

- i. The satisfaction of meaningful demand for renewable energy options alone certainly justifies approval of the RSP.*

The pent-up demand for such an option is evident from the fact that ten large customers have executed 15-year (long-term) RSP agreements, and two of those committed subscribers (Walmart Inc. and Bayer) even went so far in support of the Program to file rebuttal and surrebuttal testimonies and otherwise participate in this proceeding.²¹² The ten subscribers entered into such agreements understanding that a termination fee will be assessed if a subscriber needs to terminate and a replacement subscriber cannot be found.²¹³

Both Walmart and Bayer explain that they have very limited options for accessing renewable energy options outside of programs offered by utilities, like the RSP, and why the RSP is important to each of them.²¹⁴ Bayer explains by way of example: "One option would be for us to invest in a solar project ourselves; however, we have limited capex for infrastructure projects and would prefer to invest in capex in our core business R&D and production, allowing both Bayer and Ameren Missouri to concentrate on what each does best."²¹⁵ Large customers' needs for renewable energy options could not be satisfied fully by Phase 1, and over 100 MW of additional renewable subscription is on the wait list, which could support future phases of the Program, if approved.²¹⁶

²¹² Ex. 400, Andrew Teague Rebuttal Testimony on behalf of Walmart Inc.; Ex. 401, Andrew Teague Surrebuttal Testimony; Ex. 302, Mark Schuerman Surrebuttal Testimony of Bayer Crop Science, Bayer Crop Science LP, and Bayer Research and Development Services, LLC ("Bayer").

²¹³ Ex. 400, Andrew Teague Rebuttal Testimony, p. 9, ll. 5 – 13.

²¹⁴ Ex. 401, Andrew Teague Surrebuttal Testimony, p. 3, l. 6 – p. 4, l. 4; Ex. 302, Mark Schuerman Surrebuttal Testimony, p. 2, l. 7 – p. 3, l. 2; & Tr. at p. 295, ll. 3 – 18.

²¹⁵ Ex. 302, Mark Schuerman Surrebuttal Testimony, p. 2, l. 7 – p. 3, l. 2.

²¹⁶ Ex. 11P, Steven Wills Direct Testimony, p. 20, ll. 4 – 12.

To be clear though, the fact that 10 large customers subscribed all the available capacity for Phase 1, and excess demand is waitlisted, does not suggest that the Program pricing was too low, especially given that 20 customers were solicited for the Program but only 10 signed up.²¹⁷ But the demand of the 10 that did sign up does show how significant the pent-up demand for an option like the RSP had become. Notably, residential and small commercial customers have had access to a similar type of renewable energy generation resource subscription program under the Community Solar Pilot and now full Community Solar program since 2019.²¹⁸ The RSP is a complement to the Community Solar program providing a renewable energy resource subscription program to large customers.²¹⁹

ii. By itself, the RSP's potential for attracting large customers to locate in or expand in Missouri justifies approval of the Program.

Competition for economic development investments is fierce, and access to renewable energy options is increasingly vital to economic development competitiveness.²²⁰ Walmart witness Teague succinctly illuminates: "A customer's inability to achieve its renewable and carbon-free goals through grid power could result in the customer locating its facilities in a different area or state."²²¹ As earlier discussed, the location of the Project in Illinois will not detract from the Program's ability to attract large customers to Missouri.²²²

iii. The affordability benefits alone certainly justify approval of the RSP.

²¹⁷ Tr. p. 224, l. 11 – p. 225, l. 18; p. 296, l. 12 – p. 297, l. 6; & p. 302, ll. 11 – 15.

²¹⁸ Ex. 7P, Lindsey Forsberg Direct Testimony, p. 4, l. 15 – p. 5, l. 5.

²¹⁹ *Id.* at p. 7, ll. 14 – 16.

²²⁰ Ex. 6P, Robert Dixon Surrebuttal Testimony, p. 12, ll. 6 – 12.

²²¹ Ex. 401, Andrew Teague Surrebuttal Testimony, p. 4, ll. 9 – 11.

²²² Tr. at p. 157, ll. 1 – 15.

Since the Project is a needed generation resource and in the public interest as described previously, under all plausible scenarios, the Program will produce benefits for non-subscribers.²²³ Using the most updated estimates, Phase 1 of the Program is estimated to yield affordability benefits by reducing future revenue requirements in the amount of **\$11.7 million to \$27.8 million** on a net present value basis.²²⁴ The tracker requested by the Company will further ensure that all of the affordability benefits actually accrue to all customers.²²⁵ While Staff perplexingly scoffs at tens of millions of dollars being voluntarily contributed by RSP subscribers to reduce the costs of the resource for the benefit of all customers, the Commission will hopefully view the obvious public interest in reducing costs of the resource and overall generation transition attentively.²²⁶

iv. Reducing economic uncertainty associated with unexpected changes in resource output, on its own, justifies approval of the Program.

The Renewable Resource Charge is a fixed rate locking in what a subscriber will pay to cover the estimated cost of the resource for their subscription term (15 years). In contrast, the Renewable Benefits Credit is dependent on the output of the resource. If the resource (the Project for Phase 1) generates more energy than expected, the subscriber will receive a larger credit. However, if the resource generates less energy than expected, the subscriber will receive a smaller credit. The variation in the Program credit ties the benefits received by the subscriber to the benefits generated by the resource to which they are subscribing. Because the credit is a function of resource output, that output ends up impacting the amount of net revenue from the Program, and therefore the non-subscriber benefit provided by the resource through the Program, in direct

²²³ Ex. 12P, Steven Wills Surrebuttal Testimony, p. 37, ll. 14 – 17 & Tr. at p. 219, ll. 18 – 21.

²²⁴ See footnote 192.

²²⁵ See footnote 193.

²²⁶ Ex. 12P, Steven Wills Surrebuttal Testimony, p. 47, ll. 1 – 9.

proportion to the change in resource output.²²⁷ Moreover, the variation in Program revenues and market revenues are always in opposite directions, and of similar magnitude, such that any volatility in non-subscriber revenue requirements from the resource is *always* reduced. Essentially, this structure, and the contribution of the subscribers, mitigates, if not eliminates, economic uncertainty associated with unexpected changes in resource output, to the benefit of non-subscribers.²²⁸

- v. *Just monetizing the RECs through subscriber net revenues and correspondingly ensuring that the Company's load is in fact being served by cleaner resources by having associated RECs retired on subscribing customers' behalf warrants approving the Program.*

Through the RSP, the Company will be able to monetize the RECs through subscriber net revenues, at a locked-in price which is likely beneficial to all customers given the expectation that REC prices will likely decline over time, as discussed earlier.²²⁹ Hence, the net premium under the Program was evaluated against the implied REC cost when the pricing was initially developed.²³⁰ If the RECs produced by the Program resource (the Project for Phase 1) were sold into the market (not needed for RES compliance), any utilities or customers outside of the Company's service territory could purchase them, and then one of Staff's stated concerns in this case – that the Company will not be serving its customers with clean renewable resources – would actually become true, because those RECs would leave the service territory, and with it, so would any legitimate claim that the Company's load was served by cleaner resources.²³¹ Retiring the associated

²²⁷ Ex. 12P, Steven Wills Surrebuttal Testimony, p. 39, ll. 9 – 18.

²²⁸ *Id.* at p. 41, ll. 3 -7.

²²⁹ *Id.* at p. 44, l. 20 & Tr. 243, l. 7 – p. 245, l. 7.

²³⁰ Ex. 11P, Steven Wills Direct Testimony, p. 18, l. 5 – p. 19, l. 1.

²³¹ Ex.12P, Steven Wills Surrebuttal Testimony, p. 43, ll. 17 – p. 44, l. 1.

RECs on subscribing customers' behalf under the Program ensures the Company's load will undoubtedly be served by cleaner resources.²³²

Overall, the Program is well designed and consistent with the successful "SolarTogether" program offered by Florida Power & Light Company and approved by the Florida Public Service Commission in 2020.²³³ The RSP pricing is cost-based, reasonable when compared to implied REC costs, was low enough to attract firm commitments to participate, and is projected to yield tens of millions of dollars in benefits for non-subscribing customers. Thus, the Program should certainly be approved.

III. IF THE COMMISSION APPROVES THE RENEWABLE SOLUTIONS PROGRAM PROPOSED BY AMEREN MISSOURI, NONE OF THE CONDITIONS PROPOSED BY OPC OR STAFF SHOULD BE IMPOSED ON SUCH APPROVAL.²³⁴

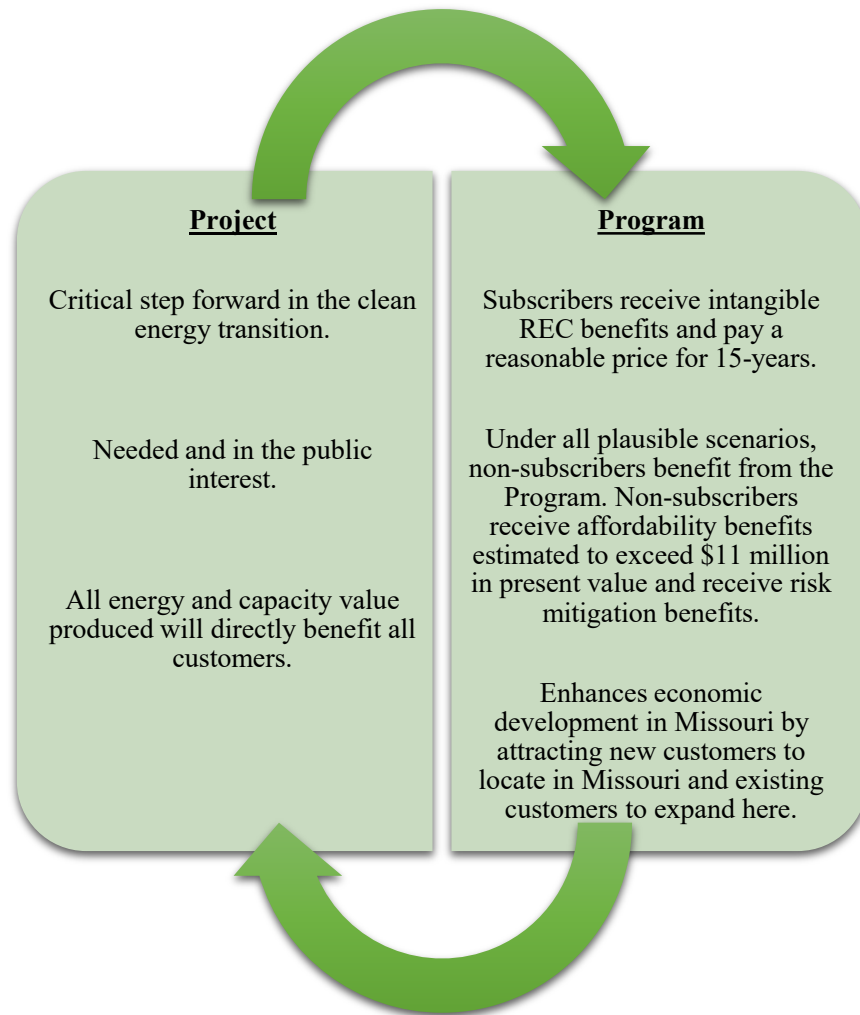
The OPC's and Staff's proposed conditions on the Program fundamentally misunderstand or flatly ignore the relationship between the Project and the RSP and should be rejected. The

²³² *Id.* at p. 44, ll. 9 – 15.

²³³ Ex. 11P, Steven Wills Direct Testimony, p. 12, ll. 8 – 17.

²³⁴ Addresses Issue D from the List of Issues.

valuable interplay between the Project and the RSP can be shown as follows:²³⁵



As discussed earlier in detail, Staff proposes a hold harmless condition so that subscribers and shareholders would be required to cover all costs of the Project.²³⁶ But the Company has clearly requested the Project CCN be approved pursuant to the Company's need to start adding renewable resources now *irrespective* of approval of the Program. For the reasons discussed

²³⁵ Ex. 1P, p. 2, l. 21 – p. 3, 3 & Tr. at p. 300, ll. 1 – 9.

²³⁶ Section V.ii.a. above.

earlier in this brief, Staff's proposed condition is completely inappropriate and should be rejected.

OPC's proposed 50/50 risk-sharing mechanism suffers from the same misunderstandings. According to OPC, the 50/50 risk-sharing mechanism is supposed to assure non-participants that if the Program becomes undersubscribed, that the costs are borne equally between customers and shareholders.²³⁷ Not only does such proposal disregard the long-term (15-year) agreements entered into by 10 subscribers for Phase 1 of the RSP, and the termination fee provision therein, it too would turn the regulatory principle that when resources are needed customers bear the risk (or benefit) of the economics of them, on its head.

The other voluntary renewable subscription programs offered by the Company and other Missouri regulated utilities (such as the Company's Community Solar Pilot and full program, an Evergy approved program, and a proposed Liberty subscription program) wherein the utilities have agreed to 50/50-type sharing mechanisms are not comparable and easily distinguishable. As Staff witness Cunigan explained when questioned by Chairman Rupp, for those voluntary programs, the CCNs sought for those programs were much smaller than the 150 MW Project at hand and were not justified by a need beyond making renewable energy available to customers.²³⁸ In sum, both Staff's and OPC's supposed risk-sharing conditions should be emphatically denied.

Staff witness Cunigan recommends three other conditions, which should all be rejected as well. First, Staff recommends as follows:

Ameren Missouri should specifically delineate within each FERC account all revenues, investments and expenses associated with the Renewable Solutions Program. The specific delineation of the Project should also include a reasonable allocation of the items related to the Program in which the amount is indirectly

²³⁷ Tr. at p. 348, ll. 4 – 25.

²³⁸ Tr. p. 463, l. 8 – p. 465, l. 5.

attributable to the Program. The unique recording for these items is to be available for Staff's review during future Ameren Missouri general rate cases.

Since the Project is needed and in the public interest, and the risk-sharing mechanisms proposed by Staff and OPC are wholly inappropriate, such detailed accounting would really be an academic exercise whereby Staff could "track these items in order to assess the success of subscriber and non-subscriber programs."²³⁹ Given the utter misunderstandings of the Project's and Program's interplay, it seems dubious how Staff would even assess or define success of the RSP let alone compare its success to other programs.

Second and third, Staff witness Cunigan inappropriately recommends a reevaluation of in-service status and re-valuation of the Project for inclusion in the revenue requirement as follows:

In addition to an in-service evaluation at the time the facility is initially placed into rates, Ameren Missouri shall demonstrate the facility is fully operational at the time the RSP program ends.

The costs of the generation facilities to be placed on ratepayers will be determined at the time the RSP program ends. The valuation of the facility will take into account the current book cost, the state of the facilities, depreciation, degradation over time, and current market prices for similar sized assets. The least cost option will be chosen.²⁴⁰

There are so many flaws with these conditions. As an initial point, the conditions assume that the RSP will end prior to the generation facilities' end of life or lives. While Phase 1 of the Program is currently set for 15 years, it is possible that it could be extended, with Commission approval of course. This leads to the flaw that both conditions attempt to improperly bind future Commissions to perhaps foreclose extension of the RSP and/or dictate what evaluations have to take place and which option will be chosen for inclusion in revenue requirement after the RSP ends. Tellingly, Staff witness Cunigan never identifies any Commission authority that would require or even

²³⁹ Tr. p.372, ll. 5 – 18.

²⁴⁰ Ex. 108, Cedric Cunigan Surrebuttal Testimony, p. 3, ll. 6 – 13.

contemplate a re-evaluation of the in-service status at any point up until retirement of a generation facility or a re-valuation outside of a general rate case's review of depreciation and revenue requirements. Staff cites no precedent for doing so with any generating facility. In addition, both conditions are based upon the erroneous underlying assumption that there is some risk from which non-subscribers should be shielded. As explained extensively above, the Project would be constructed whether or not the Program existed, just as many other generation facilities have been constructed, without the imposition of a condition that retests the facility's in-service status or re-values it for ratemaking purposes years later (aside from the normal accounting for depreciation, additions, etc.). It makes absolutely no sense to impose such unprecedented conditions on the Project. And, under all plausible scenarios, all the Program does is reduce the cost of the Project anyway, since non-subscribers will only benefit in multiple ways from the Program's existence. Staff's second and third recommended conditions should be rejected entirely.

Finally, Staff's last recommended Program condition, which would have the RSP tariff language changed to outline how the Company will retire RECs on the subscribing customer's behalf, is moot. Staff initially adopted such condition based on the testimony of Walmart witness Teague.²⁴¹ Under examination by Company counsel however, Walmart witness Teague confirmed that the language already in the RSP tariff at Sheet No. 83.3 regarding retirement of RECs on behalf of subscribers is "sufficient."²⁴² As a result, Staff's last recommended condition is moot.²⁴³

²⁴¹ Ex.108, Cedric Cunigan Surrebuttal Testimony, p. 2, l. 15 – p. 3, l. 2.

²⁴² Tr. p. 305, l. 1 – p. 306, l. 13.

²⁴³ See generally, *State ex rel. Reed v. Reardon*, 41 S.W. 3d, 471, 473 (Mo. banc 2001) (holding that, when an event occurs that makes granting effectual relief impossible, the case is moot and generally should be dismissed).

CONCLUSION

The Company has met its burden to establish by a preponderance of the evidence – that it is more likely than not – that the Project is necessary or convenient for the public service. Properly applied, the evidence supports the conclusion that all five Tartan Factors have been satisfied. The Company has also established that the Program brings benefits to non-subscribers under all plausible scenarios.

The Staff’s “hold harmless” condition is completely inappropriate, and its appropriateness is belied by Staff’s own admission that when the Commission determines a resource is necessary or convenient for the public service – as it should here – customers bear both the burdens but receive the benefits associated with – the economic outcomes of the resource; utilities are not insurers of the downside because they do not receive the upside. OPC’s 50/50 sharing proposal, recommended if the Program is approved, is similarly flawed and even more so given that the Program can only benefit non-subscribers.

The Commission should approve the CCN for the Project, subject to the conditions discussed in Section Vi of the CCN Argument section of this brief, should approve the Program, as reflected in the RSP tariff on file with the Commission, and should approve the Company's proposed tracker to ensure all program revenues benefit all customers.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that true and correct copies of the foregoing was served on counsel for all parties of record in this docket via electronic mail (e-mail) on this 3rd day of March, 2023.

/s/James B. Lowery
James B. Lowery