

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of Dogwood Energy, LLC's)
Petition for Revision of Commission Rule)
4 CSR 240-3.105.)

File No. EX-2014-0205

Ameren Missouri's Reply to Staff Response

COMES NOW Union Electric Company d/b/a Ameren Missouri (Ameren Missouri or Company) and in response to the Missouri Public Service Commission *Staff Response to Commission Order Directing Staff to Investigate and File Recommendations (Staff Response)*, states as follows:

1. On January 8, 2014, Dogwood Energy, LLC (Dogwood Energy) filed a petition asking the Commission to amend 4 CSR 240-3.105 to "clarify" that electric utilities must obtain advance approval from the Missouri Public Service Commission (Commission) before acquiring an electric plant built by others as a regulated asset and before undertaking major renovation projects regarding their existing electric plants (the Dogwood Energy proposal).

2. On February 14, 2014, Ameren Missouri, Missouri Public Service Commission Staff (Staff) and others filed comments on the Dogwood Energy proposal.

3. The *Staff Response* did not recommend the Commission adopt Dogwood Energy's proposed regulations but expressed Staff's view that there is a need to amend 4 CSR 240-3.105. "The Staff will take issue with much of the language that Dogwood Energy proposes in Exhibit 1 to its petition but the Staff views it as a vehicle for amending Commission Rule 4 CSR 240-3.105 which needs amending."¹

¹ *Staff Response*, p. 3.

4. In reviewing the *Staff Response*, it appears Staff shares Ameren Missouri's belief that Dogwood Energy's proposed rule contains a number of flaws and should not be adopted by the Commission.

5. Despite the concerns raised in the *Staff Response*, Staff recommended the Commission open a rulemaking at Dogwood Energy's request, which would have the effect of “starting with” Dogwood Energy's flawed proposed rule, rather than starting with a rule that actually addresses the issues that may have arisen from recent court decisions, which the *Staff Response* makes clear are the drivers behind the Staff's view that amendments to the existing rule should be considered. If the existing rule is to be examined in light of these court decisions, Ameren Missouri believes the Staff's suggestion to start with Dogwood Energy's proposed, flawed language reflects an inappropriate approach to such an examination. Opening a formal rulemaking would be necessary at some point in time if a change is to be made to the Commission's existing regulations. But this issue is not ready for a formal rulemaking nor is the Dogwood Energy proposal the only vehicle that the Commission has available to it. Rather than opening a formal rulemaking, the Company would suggest the Commission deny Dogwood Energy's pending request for a rulemaking and, instead, order a workshop be opened to evaluate the issues identified by Staff in the *Staff Response* and to facilitate what would hopefully be much more appropriate language upon which a formal rulemaking could later be commenced. That will provide all participants with the time to propose and evaluate language rather than jumping into a process with language which most participants believe is inappropriate.

6. Empire District Electric Company (Empire) made a similar proposal in *Empire's Reply to Staff Response*. Empire points to a previous case where the Commission denied a request for rulemaking and instead initiated a workshop process. Ameren Missouri agrees that if

the Commission believes an examination of its existing rule is warranted at this time, the Commission should follow a similar process and reject the Dogwood Energy proposal outright in favor of the initiation of a workshop to examine the issues that may have arisen from recent court decisions.

WHEREFORE, Ameren Missouri respectfully requests the Commission deny Dogwood Energy's request that the Commission open a formal rulemaking at this time and, if the Commission desires to examine its existing rule, instead establish a working docket to facilitate discussion and a proposed rule that appropriately addresses the issues set forth in the *Staff Response*.

Respectfully Submitted,

/s/ Wendy K. Tatro

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**ATTORNEYS FOR UNION ELECTRIC
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CERTIFICATE OF SERVICE

The undersigned certifies that true and correct copies of the foregoing have been e-mailed or mailed, via first-class United States Mail, postage pre-paid, to the service list of record this 25th day of February, 2014.

/s/ Wendy Tatro
Wendy K. Tatro