

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

In the Matter of the Union Electric Company d/b/a)
Ameren Missouri's Tariffs to Decrease Its) File No. ER-2019-0335
Revenues for Electric Service.)

STATEMENT OF POSITION

COMES NOW Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri")
and provides the following *Statement of Position*:

LIST OF ISSUES¹

1. Unit Commitments – March 9
 - a. *Should any disallowance be ordered because of Ameren Missouri's unit commitment practices?*

No. Ameren Missouri's commitment decisions for its coal-fired generating units are based upon economic analysis of expected market conditions, specific unit characteristics including start-up costs as well as potential maintenance costs cycling these units off and on can cause, and how these factors impact the total energy production costs. These issues are addressed in detail in the rebuttal testimony of Ameren Missouri witness Andrew Meyer starting at page 20. As noted by Mr. Meyer, "This analysis is more comprehensive and inclusive of relevant factors for Ameren's long-lead time units than the MISO commitment process."² Sierra Club witness Allison's analysis indicating that there were four instances where certain

¹ Reflects only those issues reserved for hearing under the terms of the agreed-upon settlement and that were not otherwise resolved by that settlement.

² Meyer Rebuttal Testimony, p. 30, line 21 through p. 31, line 1.

units experienced losses is flawed because, among other reasons, it incorrectly relies on average accounting costs instead of on the marginal costs of operating a unit. This led to Mr. Allison reaching the incorrect conclusion that the Company's unit commitment decisions in these four instances created losses when in fact these unit commitment decisions produced a *benefit* for customers (reflected in Ameren Missouri's FAC) of nearly \$800,000. Meyer Rebuttal Testimony, p. 26. Moreover, even if there were instances where an after-the-fact examination of a unit's results showed a loss for a given period of time, it does not follow that the unit commitment decision was an imprudent one. Unit commitment decisions must be made before the market clears in the real-time based on a *forecast* of market revenues. No forecast is or can be expected to be perfect and the Commission does not use hindsight to judge the prudence of a decision, including the prudence of a unit commitment decision. It should also be noted that the Staff specifically examined the Company's unit commitment practices in its recently concluded FAC prudence review. *See* Staff Report, File No. EO-2019-0257 (Aug. 29, 2019). Staff's Report, which indicated that Staff was unaware of any prudency issues regarding Ameren Missouri's unit commitment practices, reported that according to Staff's analysis the three plants (Labadie, Rush Island, and Sioux) which were self-committed by Ameren Missouri during most hours in the prudence review period produced *more than \$327 million of benefits* during the 18 months covered by the prudence review. Those benefits were reflected in customer rates.

Finally, Sierra Club witness Allison himself now agrees that the proper forum for examining unit commitment issues is in utility FAC prudence reviews. Allison Surrebuttal Testimony, pp. 30-31.

Witnesses:

- Avi Allison – Sierra Club
 - Direct Testimony, pp. 26 – 44
 - Surrebuttal Testimony, pp. 15 – 31
- Lena Mantle – OPC
 - Rebuttal Testimony, pp. 12 – 19
 - Surrebuttal Testimony, pp. 5, 6
- Andrew Meyer – Ameren Missouri
 - Rebuttal Testimony, pp. 19 – 35
 - Surrebuttal Testimony, pp. 6 – 13
- Todd Schatzki – Ameren Missouri
 - Rebuttal Testimony, pp. 3 – 21
- Shawn Lange – Staff
 - Rebuttal Testimony, pp. 1 – 4

2. Coal Plants and Long-Term Planning - March 10

- a. *Should the Commission refuse to allow recovery of capital costs incurred at the Rush Island, Labadie, and Sioux Energy Centers during the test year or true-up period established for this case?*

No. Ameren Missouri's recent and ongoing evaluation of the investments in its coal-fired units, as well as its previous capital investments in these energy centers, are reasonable and appropriate. The Company conducted a robust Integrated Resource Planning ("IRP") analysis in 2017 including the evaluation of early retirement of Rush Island and Labadie. Those analyses concluded that early retirement would unreasonably increase costs to customers and that the units should continue to run over the planning horizon. In addition, its IRP analyses supported its preferred resource plan, which had among the lowest net present value of revenue requirement of the various alternative resource plans considered and which called for these plants to continue to operate for many years (post-2030 and beyond) into the future. On that basis, the Company properly made investments in these plants as necessary for the safe and environmentally

responsible operation of these units. As Ameren Missouri witness Jim Williams' rebuttal testimony indicates, the investments the Company has placed in service in 2018 and 2019 (the test year and true-up period applicable to this case) are necessary for the continued safe and reliable operation of these units for the benefit of Ameren Missouri's customers, and all such investments would have been made even if, hypothetically, one or more of these units were to retire just a few years from now. Sierra Club's criticisms of the 2017 IRP are, in many respects, the same criticisms (the same claimed "deficiencies") lodged by Sierra Club in that docket. Those criticisms were not shared in by the Staff, and were not found by the Commission to be deficiencies.³ Indeed, these investments were placed in service concurrently with the Commission's *Order Regarding 2017 Integrated Resource Plan* (effective on July 17, 2018) or shortly thereafter in the latter half of 2018 and in 2019 just as the IRP had contemplated. As Ameren Missouri witness Matt Michels' rebuttal testimony indicates, this year the Company will be conducting another triennial IRP analysis, which will include specific analyses of early coal retirement costs and potential environmental compliance costs that might be crucial for long-term operation of the Company's coal-fired units. It will also include all of the Special Contemporary Issues ordered by the Commission just a few months ago, which will address each issue raised by Sierra Club in this case. In the meantime, the Company has invested in these plants in order to maintain compliance with regulatory requirements and to provide safe, reliable, and efficient operation of these units in the near-term. In fact, the Company's investments are presumed to be prudent and Sierra Club's after-the-fact cash flow analysis (discussed in greater detail below) does not even come close to raising a serious doubt about the prudence of those investments.⁴

³ See File No. EO-2018-0038, Staff's *Comments* and *Order Regarding 2017 Integrated Resource Plan*.

⁴ See, e.g., *State ex rel. Nixon v. PSC*, 274 S.W.3d 569, 581 (Mo. W.D. App. 2009) ("In evaluating the prudence of a utility's action, the utility enjoys a presumption that it acted prudently until a party presents evidence that raises a serious doubt with the expenditure. *Associated Natural Gas Company v. Pub. Serv. Comm'n*, 954 S.W.2d 520, 528 (Mo. App. W.D. 1997)").

Consequently, there is simply no basis to refuse recognition of these legitimate expenditures for ratemaking purposes.

- b. *Should a rigorous economic assessment as outlined in Sierra Club witness Avi Allison's surrebuttal testimony (page 3, lines 14-19) be required apart from the analyses to be submitted by Ameren Missouri in its 2020 triennial IRP case?*

No. Mr. Allison has presented a limited, short-term retrospective cash flow analysis, which is significantly different from the rigorous evaluations Ameren Missouri undertakes in its long-term planning. Mr. Allison readily concedes that his analysis does not conclude that any of these units should be retired.⁵ Mr. Allison also inappropriately includes capital investments made each year even though those investments will provide service over a multi-year period, further distorting the results of his analysis.⁶ Properly removing those investments from Mr. Allison's retrospective analysis demonstrates that these plants delivered more than \$200 million of benefits to customers during the years he examined.⁷ Moreover, Mr. Allison's analysis covers years when fuel costs at these plants (fuel costs are by far the largest cost of operating a coal plant) were materially higher than they were in 2019 and materially higher than they will be for the next several years. This is because Ameren Missouri has replaced fixed price, fixed quantity coal and coal transportation contracts entered into several years ago at then higher market prices with lower cost coal and coal transportation contracts (which are a key driver of the more than \$100 million reduction in annual net base energy costs reflected in this case).⁸ In short, Mr. Allison's retrospective cash flow analysis fails to inform a proper evaluation of the future operation of these plants and even if such an analysis might provide some kind of useful information about

⁵ Allison Direct Testimony, page 3, lines 7 – 9.

⁶ Michels Rebuttal Testimony, page 5, lines 18 – 20.

⁷ Michels Rebuttal Testimony, page 8, lines 1 – 2.

⁸ Meyer Rebuttal Testimony, page 8, line 21 through page 9, line 13.

their forward looking operation, relies on cost levels for the plants' largest cost item that are not reflective of current and expected future conditions. Finally, the very kind of analysis that Mr. Allison advocates for will be submitted just a few months from now in the 2020 triennial IRP case⁹ where the parties, Sierra Club included, will have the opportunity to engage in discovery and to request an evidentiary hearing before the Commission to vet any concerns with the analyses that are presented (it should be noted that Ameren Missouri has agreed, in the settlement expected to be filed this week, that it will not object to a Sierra Club request for a hearing in that docket). There is simply no need to separately order analyses that will be performed and presented to the Commission just a few months from now.

Witnesses:

Avi Allison – Sierra Club
Direct Testimony, pp. 5 – 25
Surrebuttal Testimony, pp. 1 – 15
Geoff Marke - OPC
Rebuttal Testimony, pp. 11 – 14
Surrebuttal Testimony, pp. 1 –12
Jim Williams – Ameren Missouri
Rebuttal Testimony, pp. 1 – 12
Matt Michels – Ameren Missouri
Rebuttal Testimony, pp. 5 – 22
Surrebuttal Testimony, pp. 1 – 7
Shawn Lange - Staff
Staff Report, pp. 55-57
Rebuttal Testimony, pp. 1 – 4

3. Fuel Adjustment Clause ("FAC") – March 11

- a. *What is the appropriate sharing mechanism between the company and customers for costs recovered through the FAC?*

A sharing mechanism assigning 95% of changes in net energy costs to customers and 5% to the Company remains reasonable and appropriate. The sharing percentage in Ameren Missouri's FAC has remained unchanged

⁹ Michels Surrebuttal Testimony, page 6, line 20 through page 7, line 4.

since it was first set by the Commission in 2009.¹⁰ That sharing percentage is identical to the sharing percentage adopted by the Commission for every FAC in the state since the Commission first approved an FAC for Aquila, Inc, (now Evergy Missouri) in 2007 despite other sharing percentages being recommended on numerous occasions, including repeatedly by OPC. OPC has offered absolutely no evidence that Ameren Missouri has acted imprudently respecting its FAC nor has it provided any justification whatsoever for changing the sharing percentage in Ameren Missouri's FAC. Nor does the fact that the General Assembly chose to require deferral of 85% of the return and depreciation on qualifying electric plant covered by Section 393.1400 (generally referred to as the "PISA statute") have anything to do with the appropriate sharing percentage in the FAC.¹¹ There has been absolutely no demonstration that the Company needs any sharing percentage at all to prudently manage its net energy costs, let alone evidence that it needs to be put at greater risk of not recovering changes in its prudently-incurred net energy costs. Nor is there any justification for depriving customers of an even greater percentage of net energy cost reductions. Not only has OPC completely failed to justify changing the sharing percentage, but the key justification underlying OPC's proposal – that changing the sharing percentage would somehow deter OPC's claimed manipulation of setting net base energy costs too low so the Company would then bear a higher percentage of the actual net energy costs when those actual costs exceed the base level – is demonstrably false. As Mr. Meyer convincingly demonstrates¹² that not only has there been no manipulation (as evidenced, among other things, by Staff's independent determination of net base energy costs which is quite close to, indeed are lower than, the Company's calculation), engaging in such manipulation would be harmful to Ameren Missouri's interests.

¹⁰ See File No. ER-2008-0318, File No. ER-2010-0036, File No. ER-2011-0228, File No. ER-2012-0166, File No. ER-2014-0258, and File No. ER-2016-0179.

¹¹ Byrne Rebuttal Testimony, page 56, lines 1 – 18.

¹² Meyer Rebuttal Testimony, page 3, line 10 through page 9, line 12.

Witnesses:

Andrew Meyer – Ameren Missouri
Rebuttal Testimony, pp. 9 – 16
Lisa Wildhaber – Staff
Staff Report, pp. 148 – 149
Rebuttal Testimony, pp. 7 – 8
Lena M. Mantle – OPC
Direct Testimony, pp. 5 – 11
Rebuttal Testimony, p. 17
Surrebuttal Testimony, pp. 1 – 6

4. Affiliate Transactions – March 12

- a. *Should OPC's recommended disallowance of approximately \$218 million in Ameren Services Company costs be adopted?*

No. The purpose of the Affiliate Transactions Rule, 20 CSR 4240-20.015, is to prevent regulated utilities from subsidizing their unregulated affiliates. What the OPC has attacked, in particular, are payments to a service company (Ameren Services Company, or "AMS") which provides necessary services at cost, with no profit or markup of any kind. AMS provides corporate support services to all Ameren affiliates in a far more cost-effective and efficient manner than each individual subsidiary could provide or obtain such services on its own. Through his direct and rebuttal testimonies, Ameren Missouri witness John Reed specifically addresses these issues and presents analyses that strongly support the conclusion that Ameren Missouri's costs for these needed services are clearly lower because of the use of AMS than they would have been had Ameren Missouri had to provide or acquire the services on its own. The OPC would have Ameren Missouri bidding out these services consistently, which could create confusion, attrition, loss of institutional knowledge, and other untenable results. Ameren Missouri appropriately benchmarks the services provided by AMS, which is a reasonable substitute for competitive bidding.¹³ In fact, Ameren Missouri has been receiving these kinds of services from AMS for

¹³ Reed Direct Testimony, page 10, lines 1 through 23; Reed Rebuttal Testimony, page 7, line 19 through page 8, line 12, and page 10, line 1 through page 11, line 5.

more than 20 years, when the Commission first approved the formation of Ameren Corporation including the service company structure it has employed since that time. As the Staff's independent determination regarding AMS costs in this case demonstrates, Ameren Missouri's incurrence of costs from AMS to obtain these needed services is prudent, reasonable, and beneficial to its customers,¹⁴ despite OPC's claims to the contrary. And while the Company disagrees that it is or has been in material violation of the Affiliate Transactions Rule, even if some technical violation had occurred, the remedy for such a violation is not to ignore for ratemaking purposes the reasonable and prudent costs incurred to obtain services like accounting, legal, environmental, engineering, information technology, and other services that Ameren Missouri must have if it is going to discharge its service obligation to its customers. If OPC witness Schallenberg believes, as he claims, that Ameren Missouri has never been in compliance with the Affiliate Transaction Rule, the proper course of action would have been for Mr. Schallenberg to have caused the Staff to file a complaint against Ameren Missouri during the many years Mr. Schallenberg was a part of the Staff's management. And if the OPC believes the Company is not in compliance now then its remedy is also to file such a complaint.¹⁵ However, ignoring legitimate costs of providing service in this rate case would be completely inappropriate.¹⁶

Witnesses:

Robert E. Schallenberg – OPC
Direct Testimony, pp. 1 – 8
Rebuttal Testimony, pp. 4 – 5, 7, 8 – 12, 14 – 32
Surrebuttal Testimony, pp. 1 – 22
Tom Byrne – Ameren Missouri
Rebuttal Testimony, pp. 2 – 18
Surrebuttal Testimony, pp. 1 – 12
John Reed – Ameren Missouri

¹⁴ *Staff Report*, page 40 – 41; Oligschlaeger Rebuttal, page 10, lines 6 – 10; Oligschlaeger Surrebuttal, page 11 line 19 through page 12, line 5.

¹⁵ Oligschlaeger Rebuttal Testimony, page 11, lines 10 – 12; Byrne Rebuttal Testimony, page 17, lines 18 – 19; Byrne Surrebuttal Testimony, page 10, line 23 through page 11, line 2.

¹⁶ Byrne Rebuttal, page 18, lines 2 – 4.

Direct Testimony, pp. 1 – 11
Rebuttal Testimony, pp. 1 – 18
Surrebuttal Testimony, pp. 1 – 15
Ben Hasse – Ameren Missouri
Rebuttal Testimony, pp. 1 – 4
Laura Moore – Ameren Missouri
Rebuttal Testimony, pp. 12 – 13
Surrebuttal Testimony, pp. 1 – 18
Mark L. Oligschlaeger – Staff
Staff Report, pp. 40 – 41
Rebuttal Testimony, pp. 1 – 11
Surrebuttal Testimony, pp. 1 – 12

WHEREFORE, Ameren Missouri asks that the Commission accept its Statement of Position and grant such other and further relief as the Commission considers reasonable in the circumstances.

Respectfully submitted,

UNION ELECTRIC COMPANY
D/B/A AMEREN MISSOURI

/s/ *Wendy K. Tatro*

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail, or First Class United States Postal Mail, postage prepaid, on this 24th day of February, 2020, to all counsel of record.

/s/ Wendy K. Tatro