BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of Union Electric Company d/b/a Ameren Missouri for Permission and Approval and a Certificate of Public Convenience and Necessity Authorizing it to Construct, Install, Own, Operate, Maintain and Otherwise Control and Manage A Utility Waste Landfill and Related Facilities at its Labadie Energy Center	)	File No. EA-2012-0281

INTERVENORS' INITIAL POST-HEARING BRIEF

I. INTRODUCTION

Union Electric Company d/b/a Ameren Missouri (Ameren) asks the Commission to grant its application for a certificate of convenience and necessity so that it can expand the boundaries of its Labadie coal-fired power plant into the floodplain at Labadie Bottoms. The proposed landfill will stretch over almost 200 acres, will be actively used for 24 years, and will remain at its location forever. Ameren will spend tens of millions on construction. Yet for such a large and long-lasting project, Ameren relies heavily upon guesswork. It never considered any alternative site for disposal of the Labadie ash and thus has no idea, despite its claims to the contrary, whether the site it selected is among the cheaper and better sites available. It never quantified the enormous costs associated with the site's natural hazards — flooding, a high groundwater table that rises above the surface and earthquakes — apparently gambling that the odds of a disaster on its watch were remote enough for it to ignore. It has resisted testing at its existing site to determine whether the unlined long-leaking ash pond might have already contaminated the

groundwater at the proposed landfill site, preferring to cross its fingers and hope that the landfill is operating before the regulators get around to requiring such an examination.[1]

Ameren's decision to wing it on these issues might not matter if coal ash were pixie dust, or if the Labadie plant were located on a remote and desolate island. But the reality is otherwise. Ameren's actions affect its neighbors in Labadie, water drinkers in the St. Louis region, and ratepayers throughout Ameren's territory. The consequences of placing a coal ash landfill at the proposed site will be with us long after the Labadie power plant closes. On the record before it, the Commission should deny Ameren's application.

II. ARGUMENT

Ameren, as the Applicant, has the burden to prove that the proposed landfill is "necessary or convenient for the public service." *In re KCP&L Greater Missouri Opers. Co*., Case No. EA-2009-0118, 2009 WL 762539,*9 (Mo. P.S.C. Mar. 18, 2009) (*citing Holt v. Director of Revenue*, 3 S.W.3d 427, 430 (Mo. App. 1999)). In determining what is necessary or convenient, this Commission considers five factors: (1) whether there is a need for the proposed facilities; (2) whether the applicant is qualified to own, operate or manage the proposed facilities; (3) whether the applicant has the financial ability for the undertaking; (4) whether the applicant's proposal is economically feasible; and (5) whether the proposed facilities are in the public interest. *See id.* at * 9 (describing these as the *Intercon* or *Tartan* factors).

A. The Commission Has Jurisdiction to Consider the Environmental Issues Raised In this Case.

At the outset of the evidentiary hearing, the Commissioners asked the parties for their views of the Commission's jurisdiction to consider environmental matters in the course of this

[1] So far in Missouri this bet has paid off, due to the Missouri Department of Natural Resources (DNR)'s comparatively lax standards. Even Ameren's expert, Tyler Gass, noted how "odd" it was for Ameren to have escaped mandatory groundwater testing around its ash ponds. Tr. Vol. 7 at 628.

proceeding.[2] The Intervenors wish to make it clear that the Commission does have such jurisdiction and that the Commission is fully capable of exercising its authority to protect the public health and safety even though DNR also considers environmental and public health issues relating to the construction of a landfill.[3]

The Commission is endowed by statute with the power to "order such reasonable improvements as will best promote the public interest, preserve the public health and protect those using such gas, electricity, water, or sewer system …." Mo. Rev. Stat. § 393.140(2). Its powers include the authority to require public utilities to conduct operations in a manner that promotes and safeguards the health and safety of its employees, customers, and the public. The Commission's authority extends to the utility's plant, equipment, apparatus, and premises. Specifically, the Commission may "prescribe … appropriate safety and other devices or appliances, … establish uniform or other standards of equipment, and … require the performance of any other act which the health or safety of … employees, customers or the public may demand." *In re Transource Missouri,* 2013 WL 4478909 at *7 (Mo. P.S.C. Aug. 7, 2013) (citing Mo. Rev. Stat. § 386.310.1).

This authority over public health and safety complements that of the Commission's fellow state agencies like the Missouri Department of Natural Resources (DNR). *In re Hickory Hills Water and Sewer Co.*, 2006 WL 1667696 (Mo. P.S.C.) (Commission directs rate increase to be used to make upgrades to achieve environmental compliance); *Staff v. Hurricane Deck*

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[2] Tr. Vol. 5 at 57:23-68:2; 71:3-76:13; 78:7-83:1; 90:25-92:7.

[3] Ameren suggested at trial that Intervenors' current position is at odds with the legal position expressed in their Motion to Dismiss. It is not. Intervenors argued earlier that no CCN was required since Ameren did not propose to expand its electrical plant, only to build a landfill. In light of the Commission's decision to exercise jurisdiction over Ameren's CCN application, Intervenors now urge the Commission to use its full authority since it has chosen to hear the case.

Holding Co., 2006 WL 2528005 (Mo. P.S.C. Aug. 31, 2006) (staff complaint alleging that sewer company was out of compliance with MDNR regulations and hence with Commission regulations); *see also In the Matter of the Joint Application of Stoddard County Sewer Company, Inc., R.D. Sewer Co., L.L.C. and the Staff*, 2008 WL 4724833, at 8, 102 (Mo. P.S.C. Oct. 23, 2008) (over parties' protests, Commission found sewer company provided inadequate and unsafe service; new company could accept transfer of assets but was required to develop environmental compliance schedule with DNR and Attorney General).

In addition, the Commission has also been specifically called upon to consider environmental issues involved in the siting of new electrical plants or lines. In 1977, Empire District Electric Company sought a CCN that would allow it to build a new oil-fired electric generation plant in the location of its choice. Twenty-seven local residents and landowners intervened, opposing the CCN because the plant was to be situated in the floodplain of the Spring River. *In re Application of Empire District Electric Co*., 1977 WL 37552, * 4 (Mo. P.S.C. Feb. 25, 1977). At the evidentiary hearing, Empire argued that it had taken the potential flooding issues into account in its design of the facility, but the intervenors challenged Empire's calculations of the likelihood and effect of future floods. There is no suggestion that such considerations were improper or beyond the bounds of the Commission's expertise or jurisdiction.[4]

At any rate, no other state agency is required to consider whether current contamination at proposed landfill sites makes them a poor risk for ratepayers or whether alterative landfill

[4] The outcome of the matter was interesting. Unlike Ameren here, Empire had actually undertaken a study of alternative locations for its plant so that when it appeared that its first choice, the floodplain site, might not work out, it was able to move to its next best alternative without skipping a beat. It agreed to site its plant outside of the floodplain and the Commission granted the CCN for that location. *Id.* at *4-5.

locations would be cheaper, safer or otherwise better for the public. Those issues are squarely within the purview of the Commission.

B. Because Ameren Never Analyzed Alternative Sites, Ameren Has Not Shown that There is a Need for a Landfill at the Proposed Location.

Ameren has disposed of the coal ash generated at the Labadie plant by adding water, sluicing the coal ash wastewater to two ponds, also known as surface impoundments, at the plant site, and then discharging coal ash wastewater from the ponds into the Missouri River pursuant to a DNR-issued water pollution discharge permit. At least as far back as 2003, Ameren has been aware that these ash ponds would eventually reach capacity, and that its Labadie coal ash would have to be disposed of elsewhere. According to Ameren, it then "retained a consulting engineer (Reitz and Jens) to assist it" in the study of alternative means of disposing of the Labadie coal ash, and it "evaluated 22 sites across the region for construction of a new UWL." Application of Union Electric Co. d/b/a Ameren Missouri for a Certificate of Public Convenience and Necessity, ¶ 6 (filed Jan, 24, 2013) (Doc. # 10). It also claims that it "considered the option of transporting Labadie CCPs [coal combustion products or coal ash] to a licensed landfill owned and operated by a third party." *Id.* Based on this analysis, Ameren states that it "determined that the best option which minimized cost as well as environmental and land use impacts, was construction of a Company-owned landfill on land adjacent to the current land occupied by the Labadie Energy Center." *Id.,* ¶ 7. One might expect that a company in Ameren's position would undertake such a review. But that's not what happened here.

First, in September 2003, Ameren compiled a one-page list of six landfills in Illinois and Missouri, with stated costs per ton for disposal at each location. Ex. 2, Sch. 20 (HC). Three of the landfills listed were patently unsuitable for the disposal of the Labadie coal ash, as one accepted

only construction debris, one was closed, and one was of insufficient capacity. *Id.*; Tr. Vol. 5 at 139:12-15. For each landfill, including the remaining three, the list provided disposal costs per ton . Ex. 2, Sch. 20 (HC). Ameren's consideration of "the option of transporting Labadie CCPs to a licensed landfill owned and operated by a third party" stopped with the creation of this list. There is no evidence that the remaining landfills were ever screened any further for suitability for coal ash disposal in general, or for willingness to accept Ameren's coal ash in particular. Tr. Vol. 5 at 139:16-140:5. The concept of third-party disposal was apparently tabled, if not abandoned, without written explanation.

Seven years later, Ameren's consultant sent a brief email to a landfill operator to obtain information about possible disposal of coal ash at one of its sites. Ex. 341 (HC) at pdf p.14. By that time, however, Ameren's preparations for construction of the proposed Labadie landfill were well underway. It had purchased the nearly 1100 acres of land for the proposed Labadie landfill, asked DNR to conduct a preliminary site investigation of the Labadie site, submitted a work plan to MDNR for a detailed site investigation, and proposed zoning changes to Franklin County. Tr. Vol. 5 at 146:7-147:4. Unsurprisingly, the one-page email exchange had no apparent effect on Ameren's long-determined plan to dispose of the Labadie ash at the Labadie site.

Ameren's claim that it "evaluated 22 sites across the region for construction of a new UWL" likewise fails under examination. Inasmuch as Ameren evaluated 22 sites, it was done expressly and solely for disposal of coal ash from the Rush Island and Meramec plants. Ameren's attempt to use the Rush Island-Meramec analysis as cover for its decision to dispose of the Labadie ash at the proposed Labadie site – without considering any other sites – is disingenuous.

In 2004, Ameren consultant Reitz & Jens produced a report that looked at generic options for Ameren to dispose of its coal ash from its four St Louis-area coal plants, comparing in general terms the advantages of using a pit quarry to dispose of the ash with the advantages of an above-ground landfill. Ex. 2, Sch. 19 at 4-6; Tr. Vol. 5 at 119:13-16. However, the report neither mentions nor evaluates any specific sites whatsoever, even though it warned that "[p]otential UWL sites must be evaluated individually to weigh the pros and cons of each site." Ex. 2, Sch. 19 at 4. The report does not consider the pros and cons of locating a proposed landfill at Labadie versus another site. Ex. 2, Sch. 19 HC at 4. The report includes some general estimates of costs per ton for landfilling in pit quarries, above-grade landfills, and for transportation, and Labadie is grouped with the Rush Island and Sioux plants for this purpose. Ex. 2, Sch. 19 at 7; Ex. 2, Sch. 19A (HC) at 7-8.[5] The report notes that "[t]hese costs should be used for planning purposes only … and the final costs are heavily determined by site specific conditions." Ex. 2, Sch. 19 at 8. Yet neither this report nor any other document evaluates site-specific conditions to support Ameren's decision to pursue the proposed Labadie site as opposed to any other potential site for disposal of the Labadie plant's coal ash. Tr. Vol. 5 at 150:11-17.

Four years after this generic report, Reitz and Jens prepared a spreadsheet or matrix headed "Rush Island Plant" along with the plant's address and latitude-longitude coordinates. Ex 2, Sch. 21 (HC) at pdf p. 24. The Rush Island matrix lists 22 potential landfill sites within a radius of 165 miles from Ameren's Rush Island plant, and computes the distance from each site to Rush Island in linear miles and driving miles. *Id.*. Any consideration of costs is completely absent. According to the matrix, "weaknesses" of potential landfill sites include (1) being located in a seismic zone; (2) being located in a floodplain or floodway; (3) being located near

[5] Ameren describes this as a "holistic" approach. Ex. 341 (HC) at 1.

residential housing; and (4) zoning issues. *Id.* All of these weaknesses are present at the proposed Labadie site. Ex. 300 Part 1, at 23:1-7.

The Rush Island matrix was accompanied by a Reitz & Jens PowerPoint presentation discussing the same 22 sites as potential options for the disposal of Rush Island's coal ash and, to a lesser extent, the Meramec plant's ash. Ex. 2, Sch. 21 (HC). The sites are located on a map with the Rush Island and Meramec plants highlighted in red. *Id.* at pdf pp. 3, 7, and 25. The Labadie plant is not on the map. Although most of the 22 sites were eliminated from consideration with only minimal explanation,[6] Ex. 2, Sch. 21 (HC) at pdf pp. 4-5, the presentation provides a more detailed description of five potential sites, including their strengths and weaknesses. The strengths include proximity to Rush Island or Meramec, and the weaknesses include the same four items mentioned above. Ex. 2, Sch. 21 (HC) at pdf pp. 4-5 (eliminating 13 sites); 6-22 (five sites discussed); Tr. Vol. 5 at 130:2-131:8, 132:14-133:2, 133:9-14. Although a "disposal cost" bullet point was generated for each of the five potential sites, for all the listed cost is the same: "$ XX.XX." Ex. 2, Sch. 21 (HC) at pdf pp. 8, 11, 14, 17, 20; Tr. Vol. 5 at 131:25-132:13. Despite the lack of any dollar figures, the Rush Island presentation concludes that "transportation cost (O&M) drives disposal costs." Ex. 2, Sch. 21 HC at pdf p. 23.

Both the Rush Island matrix and the presentation appear to have been generated in 2008. *See* Sch. 21 (HC) at pdf p. 24. By that time, however, Ameren had already begun purchasing the

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[6] It is impossible to glean much from the bullet points following each site which contain cryptic items like "corporate decision not to pursue" or "Ameren owns the property." *Id.*

Intriguingly, "Labadie Regional" appears as a potential site for the disposal of Rush Island's coal ash, but is not evaluated at all. Ameren originally planned to dispose of the Rush Island and Meramec plant ash at the proposed Labadie landfill, incurring the costs of transport from two landfills and ensuring a parade of heavy trucks through the town, but the Franklin County Land Use ordinance allowed only Labadie-generated coal ash into the Labadie landfill. Ex. 341 HC at pdf p. 1.

land near the Labadie plant for the proposed landfill. Ex 100 (HC), Sch. 2 at 2 (pdf p. 18); Tr. Vol. 5 at 146:2-6; Tr. Vol. 6 at 448:5-10. Ameren's Managing Supervisor of Hydro-engineering, Craig Giesmann, also testified that "Labadie, we had a pretty good idea that it was permittable and the property was able to be acquired … So again, there was no need to expand upon things at that point." Tr. Vol. 5 at 150:1-7. From Ameren's perspective, the decision of how to dispose of Labadie's coal ash had already been made.

This isn't simply the Intervenors' spin. Staff, in Data Request 0002, asked Ameren to produce all documents it relied upon to determine that "the best option which minimized cost as well as environmental and land use impacts was a construction of a Company owned landfill on land adjacent to the current land occupied by the Labadie Energy Center." Ex. 341 HC at pdf p.1. In response, Ameren admitted that the four documents described above – the Rush Island matrix, the PowerPoint presentation, the list of landfills and the email -- represented the entirety of its alternatives analysis for the Labadie plant. *Id.*.[7] At the evidentiary hearing, Mr. Giesmann further admitted that these documents do not consider the merits of Labadie as a site for the proposed landfill. Tr. Vol. 5 at 150:11-17. With regard to the 22-site matrix and presentation, Ameren acknowledged that these documents were created as "Ameren Missouri engineers reviewed possible sites south of the St. Louis metropolitan area for a combined Rush Island and Meramec UWL." Ex. 340 (HC) at pdf p.2.

Likewise, Ameren conceded that it never undertook a cost analysis of those 22 sites. In response to Staff's Data Request No. 0003, Ameren answered "Specific costs for each evaluated

[7] Ameren confirmed this admission in September 2013, when it responded to the Commission's request for documents relating to its consideration of alternatives. See Order Revising Procedural Schedule, at 2-3 (August 14, 2013) (Doc. # 88). While Ameren manufactured some additional documents purporting to support its earlier decision to select Labadie (Ex. 2 at 16:6-9), it still was unable to point to any specific site other than Labadie that it considered or the costs associated with disposal at any other site. Ex. 2, at 13:19-15:17.

site were not generated. Instead, generalized costs for site development were used," referring to the 2004 Reitz and Jens study that considered Labadie, Sioux and Rush Island collectively and weighed the merits of above-ground landfills versus the use of pit quarries. Ex. 356 (HC); Ex. 2, Sch. 19 HC. No operating costs were developed and no revenue was estimated. Ex. 356 HC.

The following exchange with Ameren's Giesmann underscores the company's utter failure to conduct an alternatives analysis for the proposed Labadie landfill, notwithstanding its distracting reference to the 22-sites considered for the Rush Island and Meramec plants:

> Q. I'm not saying a decision wasn't made. It's obvious a decision was made and -- and Ameren is going forward with the proposal for the Labadie plant. I'm just saying there is no documentation of that decision evaluating the pros and cons of the Labadie site for disposal of Labadie waste.
>
> A. Correct.

Tr. Vol. 5 at 150:11-17.

The Staff's analysis adds nothing to the above. Staff witness John Cassidy testified that he conducted no independent investigation into the costs of landfill construction at Labadie or any other site, and that his testimony and consideration of cost issues rested entirely on the four documents mentioned above and Ameren's responses to data requests. Tr. Vol. 6 at 416:2-417:6; Ex. 100 (HC) at 4:13-5:2 & Sch. 3. His pre-filed testimony simply recites Ameren's responses, conflating the 22-site Rush Island matrix from 2008 with the earlier generic comparison of pit quarries and above-ground landfills to create the impression of a thorough study even though no such study was ever performed. Exs. 100 (HC) at 4:21-25; 102 (HC) at 2:16-3:10. Staff witness Claire Eubanks similarly conflated the 22-site Rush Island matrix with the 2004 generic comparison to find that a thorough evaluation was performed. Ex. 103 at 7:15-8:3. As Staff witness Daniel Beck, adopting Ms. Eubanks' testimony, acknowledged, not even Ameren made that broad a claim in its responses. (Tr. Vol. 6 at 448:11-15.)

In sum, because Ameren never considered any other specific site for the disposal of the Labadie plant's coal ash, never evaluated any other specific site for environmental or land use criteria, and never compared the costs of construction at Labadie with the costs of construction at any other location, it cannot possibly know whether the proposed site is "the best option which minimized cost as well as environmental and land use impacts," as Ameren claims in its application. Ameren can neither show a need for the facility at this particular site nor can it show that its proposal is economically feasible. There are likely other sites available in the area surrounding Labadie which are both completely unexamined by Ameren and which do not have the substantial "weaknesses" of the Labadie site. Ex. 300, Part 1, at 24:18-25:18 & Part 2 at 156-58 (pdf pp. 72-74).

C. Ameren Fails to Account for the Risks Inherent in the Proposed Site.

Ameren's failure to evaluate alternative sites is particularly troublesome in light of the contamination risks and hydrogeological risks inherent in the proposed Labadie location

1. Ameren Has Failed to Account for the Costs of Addressing Contamination at the Proposed Site.

Ameren has known at least since 1992 that the unlined ash pond at the Labadie plant is leaking –in fact, it could still be leaking. Ameren also knows that the groundwater at the proposed landfill site contains high levels of contaminants associated with coal ash. Despite this knowledge, Ameren has neither tested the groundwater at the leaking ash pond to determine whether it is already contaminated nor has it accounted for the costs and liabilities associated with investigating and attempting to remediate such groundwater contamination.

Ameren has begun testing groundwater at the proposed landfill site, with sampling events in April, August and November 2013. The results show that the groundwater in the alluvial

aquifer beneath the proposed landfill already contains high concentrations of arsenic and other contaminants associated with coal ash. Ex. 8, Sch. LJNB-S13, Tables 2 and 3 (pdf pp. 66-67); Ex. 352 (Table 11). In the course of this testing, Ameren sampled 29 wells during each of the three sampling events yielding 87 sets of sampling results. There were exceedances of the federal drinking water standards for one or more pollutants during 80 of the 87 sets of sampling results. *Id.* In fact, all 29 of the wells showed exceedances of one or more pollutants during at least one sampling event, and 25 of the 29 wells showed exceedances during all three sampling events. *Id.*

In particular, the arsenic concentrations are more than six times higher than the Maximum Contaminant Level (MCL) established by the U.S. Environmental Protection Agency (EPA) under the federal Safe Drinking Water Act.[8] 40 C.F.R. 141.62(b)(16). See also Tr. Vol. 5 at 309:24-314:16. Concentrations of total dissolved solids (TDS), iron, manganese, selenium, and aluminum also exceed federal drinking water standards. *Id.*

All of these contaminants found in concentrations greater than the federal drinking water standards are associated with coal ash disposal. DNR's utility waste landfill regulations require groundwater monitoring for these pollutants at coal ash landfills, 10 CSR 80-11.010, Appendix I. *See also* EPA, Disposal of Coal Combustion Residuals from Electric Utilities, 40 Fed. Reg. 35128, 35253 (proposed Appendices III and IV to 40 C.F.R. Part 257) (June 21, 2010) (Ex. 355 at pdf p. 297). In addition, the Illinois Environmental Protection Agency (IEPA) has found violations of state groundwater standards for the same pollutants — including arsenic, TDS, iron and manganese — near the ash ponds at four of Ameren's Illinois power plants. Exs. 312-315.

[8] The MCL for arsenic is 10 micrograms per liter, and the groundwater monitoring results for the first three rounds of groundwater sampling show concentrations above the MCL ranging from 12.5 to 66.6 micrograms per liter (with the high and low results both obtained during the April sampling period). Ex. 8, Schedule LJNB-S13, Tables 2 and 3 (pdf pp. 66-67); Ex. 352.

Leakage from Ameren's unlined ash pond at the Labadie plant site across the road may very well be the source of the contamination at the proposed landfill site. Unlined ash ponds are prime suspects for groundwater contamination. According to EPA, "metals (especially arsenic) have leached at levels of concern from unlined landfills and surface impoundments." EPA, Disposal of Coal Combustion Residuals from Electric Utilities, 40 Fed. Reg. 35128, 35138 (June 21, 2010), Ex. 355 at pdf p.182. When IEPA required Ameren to undertake groundwater monitoring at unlined ash ponds at its Illinois power plants, IEPA cited the fact that the ponds were unlined and that drinking water wells were likely in the vicinity. Ex. 355 at pdf pp. 141 (Newton plant), 143 (Edwards plant), 146 (Meredosia plant), 148 (Venice plant), 150 (Grand Tower plant). Because of these facts, it was not surprising that groundwater monitoring at those and other Ameren plants in Illinois showed coal ash-related contamination. Exs. 312-315 (Violation Notices for Grand Tower, Newton, Coffeen, and Meredosia); Ex. 322 (Ameren's proposal to address groundwater contamination at the Venice plant).

Like the Illinois plants, the Labadie plant utilizes an unlined ash pond (Tr., Vol. 5, 156:25-157:12) and there are numerous drinking water wells in the vicinity of the site. Ex. 333. In addition, the unlined pond (one of two ponds at the Labadie plant) has been in use since 1970, and was leaking from 1992 until at least December 2011 (if not later). Exs. 13 and 326; Tr. Vol. 5 at 162:21-163:23. Both ash ponds are upgradient from the proposed landfill site, meaning that groundwater flows from the ash ponds toward the landfill site. Ex. 300, Part 1, at 9:13-17. However, whereas IEPA has required groundwater monitoring at coal ash ponds in Illinois, DNR has not yet required Ameren to undertake groundwater monitoring around its ash ponds here in Missouri, which even Ameren's hydrogeology expert, agrees is "odd." Tr. Vol. 7 at 628:2-24. As owner of the ash ponds, Ameren is the only entity that can conduct groundwater monitoring

around them to determine whether they are contaminating the groundwater and, if so, where that contamination is migrating. Ameren has declined to conduct voluntary monitoring around the ash ponds Tr. Vol. 5 at 160:3-9, and thus no groundwater monitoring at the ash ponds has occurred. *Id.* at 157:21-160:2.

In lieu of monitoring data, Ameren prefers theories and hunches, arguing that that the contamination found through testing at the landfill site is not caused by the obvious candidate — the unlined, leaky ash pond next door. Instead, Ameren offers the testimony of Lisa Bradley, who theorizes that the contamination reflects "naturally occurring" conditions at the landfill site. According to her, "the presence of iron, manganese, and arsenic above screening levels at the proposed UWL site is attributed to the geochemical conditions of the aquifer." Ex. 8, Sch. LJNB-S13, at 3, pdf p. 60. She offers no data at all in support of this bold conclusion; it is simply a guess.[9] Furthermore, it is not even an educated guess, as Dr. Bradley is not a geologist and is not competent to offer opinions on hydrogeological conditions, especially those affecting public health and safety. See §§ 256.456.1 and 256.453(7)-(8).[10]

Dr. Bradley's speculations about the background levels of contaminants are data-free, but the available data establish that high concentrations of arsenic such as those repeatedly found in the groundwater at the proposed landfill site are quite unusual in the Labadie area. The United States Geological Survey (USGS) maintains an extensive database of actual groundwater data recording concentrations of arsenic in shallow alluvial aquifers, such as the shallow alluvial aquifer being sampled at Ameren's proposed landfill site. Tr. Vol. 5 at 321:22-322:14; Ex. 353. According to the USGS database, the only site in Franklin County that recorded arsenic

[9] The next sentence after the one quoted here refers to soil concentrations of arsenic – not groundwater concentrations.

[10] When preliminarily submitting to Ameren her "background" theory, Dr. Bradley jokingly acknowledged her lack of geology credentials. Ex. 354; Tr. Vol. 5 at 324:7-12, 327:8-18.

concentrations in the alluvial aquifer had concentrations well below the federal drinking water standard – 2.9 and 5 micrograms per liter – far from the high of 66.6 and the numerous other MCL exceedances at the proposed landfill site. Ex. 353 at 96/103-97/103 (pdf pp. 12-13). The USGS database also indicates low levels of arsenic in surrounding counties – in St. Charles County to the north and St. Louis County to the east. Ex. 353 at 2/103-11/103 (pdf pp. 2-11) (concentrations in St. Charles County ranging from 1 to 9 micrograms per liter) and 101/103-102/103 (pdf pp. 14-15) (concentrations in St. Louis County of 2.6 and 4.1 micrograms per liter). These data are consistent with the fact that Ameren found no arsenic in the bedrock wells it drilled in areas upgradient from the ash ponds. Ex. 8, Sch. LJNB-S13, Table 4 (pdf p.68).

Having studiously avoided collecting any data which might reveal the existence and extent of the groundwater contamination near the leaky ash pond, Ameren then ignores the implications of groundwater contamination at the site, If Ameren is eventually directed by DNR to test the groundwater at the ash ponds and confirms contamination migrating from the ash ponds to the landfill site, what happens then? Ameren's claim that the proposed Labadie landfill site is the least-cost option for the disposal of Labadie coal ash rings hollow without information about the cost of investigating the source of contamination at the landfill site, including the collection of actual groundwater data at the nearby leaking ash ponds, and without factoring in the cost of remediating any contamination found and the implications for its landfill operations while such remediation occurs. The Commission should not grant a CCN for the proposed landfill until Ameren investigates the existing contamination and accounts for all costs associated with addressing it.

2. Ameren Has Not Accounted for The Costs of the Hydrogeological Risks of the Site.

If one were to ask a geologist or hydrogeologist to list the features of a favorable utility waste landfill site, it is doubtful that any would include (1) high groundwater table, (2) 100-year floodplain and floodway, or (3) earthquake zone at risk of liquefaction on their list.[11] Yet the proposed Labadie site has all three features. Individually and collectively, they pose risks that could substantially increase the costs of the proposed landfill and endanger public health and safety.

a. The Site's High Groundwater Table Increases the Risk that the Proposed Landfill Will Contaminate the Groundwater.

Ameren's Detailed Site Investigation (part of the DNR permitting process) documented that the proposed landfill site has a very high groundwater table.

> [W]ater table depth below ground surface (bgs) typically ranged from two to 13 feet during a given month, but in some instances groundwater rose up to, and in some cases, slightly exceeded ground surface elevation.

Ex. 2, Sch. 10, DSI Part 1, at 33 (pdf p.55). Not only is the site alongside the Missouri River, but the riverbed used to traverse the site itself. Tr. Vol. 3 at 21:18-23. Local residents frequently see groundwater above the surface. Tr. Vol. 3 at 16:14-17, 100:17-23. As shown in their pictures, the presence of groundwater above the surface can be so widespread that it looks like there is a pond on the site. Exs. 325, 336.

Given how high the groundwater rises at the site, it is not surprising that Ameren's proposed landfill does not comply with the requirements in Franklin County's zoning regulations

[11] Ameren's own people would not have. *See* Ex. 2, Sch. 21 (HC) at pdf p. 24 (discussing weaknesses of proposed landfill sites for Rush Island and Meramec coal ash).

and in proposed EPA regulations that the liner below the landfill be at least two feet above the groundwater. Ex. 2, Sch. 23, Appendix Z (in Part 4 of Schedule 23, Appendices A – Z, Figures, Tables, etc., pdf p. 487) (quoting Franklin County's two-foot separation requirement from section 238(C)(3)(c) of the County's Land Use Regulations); EPA, Disposal of Coal Combustion Residuals from Electric Utilities, 40 Fed. Reg. 35128, 35241 (proposed 40 C.F.R. § 257.60) (June 21, 2010) (Ex. 355 at pdf p. 285). Instead, Ameren designed the landfill liner so that the liner "will probably be in intermittent contact with the groundwater." Ex. 2, Sch. 23, Appendix Z (in Part 4 of Schedule 23, Appendices A – Z, Figures, Tables, etc., pdf p. 471). One need not be a math genius to determine that contact between the liner and groundwater means no separation between them – which is less than the required two feet of separation.

It is telling that Ameren did not design the proposed landfill to satisfy the requirements of Franklin County and proposed EPA regulations to ensure that the landfill is out of the groundwater. Ameren's expert Steven Putrich testified that it would be very expensive for Ameren to meet the requirement that the landfill liner be at least two feet out of the groundwater. Tr. Vol. 5 at 270:13-271:5. Although he did not know how much more it would cost Ameren to meet the requirement, "it would be enough that it would be a noteworthy addition, plus … you would have to redesign the entire landfill basically." Tr. Vol. 5 at 270:24-271:5.

This reveals a fatal flaw in Ameren's claim that the Labadie site is its least-cost alternative. The least-cost conclusion is premised on a construction design where the landfill's liner – according to Ameren – "will probably be in intermittent contact with groundwater." Ex. 2, Schedule 23, Appendix Z (in Part 4 of Schedule 23, Appendices A-Z, Figures, Tables, etc., pdf p. 471). The fact that Ameren did not design the landfill to ensure at least a two-foot separation suggests that doing so might render this site uneconomical. If Ameren had performed an

alternatives analysis, it could have compared the cost of building a landfill at least two feet above the groundwater at the Labadie site with the cost of doing so at a site without a high groundwater table.

In addition to not accounting for the cost of building the landfill at least two feet above the groundwater, Ameren failed to account for the costs and liabilities associated with groundwater contamination that could occur when the landfill comes into contact with groundwater. Building a coal ash landfill at a site where the groundwater regularly comes above the surface, and designing it so that the landfill's liner will be in intermittent contact with groundwater, enhances the risk of groundwater contamination. Local residents are particularly concerned about this risk, as they rely on groundwater for drinking water and other domestic use, as well as for farming. Tr. Vol. 3 at 16:23-17:1, 147:2-7; Ex. 333.

Yet Ameren offers no estimate of the costs of investigating groundwater contamination should it occur, attempting to remediate it, and addressing the associated liabilities. Tr. Vol. 5 at 168:23-169:16, 170:7-11. These liabilities could have a long tail, as Ameren is only required to maintain the site for 20 years after it closes, while the landfill will exist for the indefinite future with the toxins in the coal ash retaining their toxicity. Tr. Vol. 5 at 166:8-25; Ex. 300, Part 1, 7:11-20.

Ameren's representative Craig Giesmann, stated that the unaccounted-for costs of groundwater contamination would be the same at any site. Tr. Vol. 5 at 169:9-16. But that statement is of course unsubstantiated because Ameren never compared the costs of the Labadie site – including the costs of potential groundwater contamination -- to the costs and liabilities associated with construction at any other site. Moreover, given the outsize groundwater risks at the Labadie site – the high groundwater table, a design that places the landfill liner in contact

with groundwater, the presence of a leaky upgradient contamination source (the ash ponds), and the community's dependence on groundwater – the costs and liabilities associated with the Labadie are surely much higher than they would be at the many suitable alternative sites that lack Labadie's specific weaknesses.

b. The Site's Location in the Missouri River Floodplain and Floodway and in a Seismic Zone Poses Risks of Catastrophic Failure and Contamination.

Not only are groundwater levels extremely high at the site, but the proposed landfill site is also in the Missouri River's 100-year floodplain and floodway as defined by the Federal Emergency Management Agency (FEMA). Ex. 325. The site was inundated during the flood of 1993, for example. *See* Ex. 327. Moreover, the site is also in a seismic zone which carries a different, but equally serious set of risks.

Franklin County zoning requirements compel Ameren to build a berm to the height of a 500-year flood. But berms and levees do not remove – and can exacerbate – the risks of building a coal ash landfill in the floodplain.

First, FEMA warns that levees may provide a defense from flooding only as long as they are continuously kept in good repair:.

> Levees require regular maintenance to retain their level of protection. The fact is, levees can and do decay over time, and maintenance can become a serious challenge.

Ex. 311 at 1. Neither county nor state nor federal law requires Ameren to maintain the landfill's levee. None of the post-closure requirements – which extend for 20 years under DNR regulations and 30 years under proposed EPA regulations – encompasses a levee maintenance obligation. And in any event, Ameren can walk away from the site entirely after the post-closure period is

up, while the contaminants in landfilled coal ash will remain toxic indefinitely. Ex. 300, Part 1, at 7:14-16.

FEMA also cautions that levees can make flood damage worse than would have occurred in the absence of the levee:

> When levees do fail or are overtopped, they fail catastrophically – the flood damage may be more significant than if the levee was not there.

Ex. 311 at 1; Tr. Vol. 3 at 68:6-23. In other words, if a levee is present and fails, the flood waters rush out with greater velocity than if they had risen more naturally without a levee holding them back.

As if the dangers of flooding were not enough, the proposed site is also in an earthquake zone, exacerbating the natural risks even further. In this case, being in an earthquake zone not only means that seismic events are more likely to occur, but also, given the characteristics of the Labadie Bottoms, in the event of an earthquake, liquefaction could occur, with the soil essentially turning to liquid. Ex. 321. Needless to say, if the structural components of the landfill were suddenly floating instead of being anchored in the solid earth, their integrity would be compromised, threatening the liner and leachate collection system and increasing the risk that coal ash contaminants will enter the groundwater and the River. Tr. Vol. 3 at 69:8-11.

Just as Ameren's cost estimates for the proposed Labadie landfill ignore the liabilities associated with groundwater contamination, they also ignore the costs associated with the flooding and earthquake risks presented by the site. Tr. Vol. 5 at 169:17-170:1; Ex. 300, Part 1, 6:16-7:20. One might expect the Ameren employee who oversaw the Taum Sauk repair, Tr. Vol. 5, 108:5-8, to express a tad more caution in preparing for catastrophic failures. Whereas some

such failures are attributable to human error and are arguably avoidable, the risks posed by the Labadie site are tied to the forces of nature beyond human control.

Ameren cavalierly attempts to dismiss its omissions by noting that it also failed to account for costs associated with an airplane crashing into the landfill. Tr. Vol. 5 at 169:22-170:3. But the two types of risk are not at all equivalent. While there is no indication that Labadie is in some kind of an airplane-crash-zone, in which there is a heightened risk of airplane crashes, it is indeed in the Missouri River floodplain and floodway as designated by FEMA and in an earthquake zone at risk of liquefaction as designated by DNR. Floods and earthquakes are to be expected under these circumstances, and Ameren has not accounted for the devastating costs that they can entail.

d. Alternative Sites Could Avoid the Costs of Remediating the Labadie Site's Inherent Weaknesses and Risks.

It is likely that, had Ameren looked for alternative sites for disposing of the Labadie plant's coal ash, it could have found suitable sites without a high groundwater table and outside of flood and earthquake zones. Ex. 300, Part 1, 24:18-25:18; Ex. 300, Part 2, 156-158 (pdf pp. 72-74). Charles Norris prepared maps showing that, along the rail lines traveling west from the Labadie plant, there are large areas away from major rivers, outside of earthquake zones, and lacking other geologic hazards unsuitable for landfills such as sinkholes and karst topography. *Id.*

While Ameren broadly dismisses alternative sites based on the cost and disruption to the community of trucking the plant's coal ash out of the Labadie plant,[12] it gives short shrift to the

[12] Ameren of course had no such concerns about trucking the waste from two landfills *into* the Labadie community when it made its original proposal for a regional landfill at Labadie. *See* Ex. 302 at 13.

rail option. Rail lines bring coal to the Labadie plant from the Powder River Basin in Wyoming and return empty. Ex. 300, Part 1, 25:7-8; Ex. 302 at 1. Using the rail lines to ship coal ash to a more suitable landfill site would have no additional impact on the community. And the transportation costs of rail are less than one-half those of trucking. Ex. 341 (HC) at pdf p. 14 (August 18, 2010 e-mail exchange between landfill owner and Reitz and Jens). When Ameren initially proposed the Labadie landfill as a regional site to dispose of ash from the Labadie, Rush Island, and Meramec plants, it identified rail as one of the transportation options. Ex. 302 at pdf p.13. While there could be additional costs to enclose the coal ash for transport, Ameren has neither calculated those costs, Ex. 3, 13:22-14:14, nor compared them against the full costs of building and operating a coal ash landfill at the inherently risky Labadie site.

Unless and until Ameren accounts for the full costs of the Labadie site, and compares it with the costs of alternative, suitable sites without Labadie's risks, Ameren cannot meet its burden of proving the need for this particular facility at this location. Nor can it meet its burden of proving that the proposed Labadie landfill is economically feasible. These analyses are squarely within the Commission's jurisdiction under the *Tartan* factors. Conversely, no other regulatory agency with authority over the proposed Labadie landfill considers need and economic feasibility, and no other agency's process requires or invites an alternatives analysis.

D. Ameren Has Not Demonstrated That it is Qualified to Own and Operate the Proposed Landfill.

Ameren has not met its burden of proving its qualifications to operate the coal ash landfill that it asks the Commission to approve. Based on its track record at its plants in Illinois, at its Sioux plant in Missouri, and at the Labadie plant itself, Ameren has demonstrated over and over that its coal ash operations contaminate the surrounding groundwater, that it will ignore the

problems until forced to confront them by state regulators, and that it will not undertake any remedial action unless compelled to do so. There is no reason to think that its operation of the proposed landfill will follow a different path.

1. Ameren's Experience with Leaking Coal Ash Ponds at Labadie Does Not Support its Qualifications to Build and Operate the Proposed Labadie Landfill.

Ameren has a history of ignoring coal ash leaks and their impact on groundwater at the Labadie plant. In its 1992 application asking DNR to renew its water pollution discharge (NPDES) permit, Ameren mentioned two leaks (which it called "seeps") in the unlined ash pond at Labadie. Ex. 326 at 2; Ex. 13 at 19; Tr. Vol. 5 at 163:3-9. Ameren estimated the leaks at over 50,000 gallons per day. Ex. 326 at 2. Ameren did not propose any course of remedial action. It claimed that the smaller leak was close enough to the discharge pipe carrying ash pond wastewater to the Missouri River to be subsumed within that discharge. For the larger leak (which accounted for the lion's share of the total discharge), Ameren's view was that because it was going onto the ground and not directly into surface water, it could be ignored. Ex. 326 at 2. It made no mention of the obvious risk that discharging 50,000 gallons per day of coal ash wastewater onto the ground might result in the wastewater seeping into the groundwater – which is just below the surface – and causing contamination. Further, there is no record that either Ameren or DNR conducted any investigation into the impacts of these leaks, even as they continued unabated for years and years.

A few years before 2011, when it submitted another NPDES renewal application to DNR, Ameren buried the larger 1992 leak by placing fill material on it – not because it was seeking to remedy the leak but in order to facilitate a development project. Ex. 13 at 19. In 2010, inspections by EPA and Ameren identified another collection of leaks at the unlined pond. Ex.

13 at 19-20 (pdf pp. 3-4). Around this time, there was "considerable press coverage" regarding the Labadie pond's ongoing leakage. Ex. 13 at 19 (pdf p.3).

In late 2011, Ameren finally addressed the larger 1992 leak by installing an anti-seep collar and excavating leakage-saturated gravel and sand below the discharge pipe. It addressed the newly identified collection of leaks by installing a large slurry wall (590 feet long and 30 feet deep) to prevent the leak from continuing to move laterally. Ex. 13 at 20 (pdf p.4).[13] Again, Ameren made no effort to stop the leaks at their source or to prevent the ongoing leakage from moving downward into the groundwater. Nor did Ameren make any effort to test the groundwater around the ash pond to determine the effects of some two decades of ongoing leakage.

To this day, Ameren has not conducted groundwater monitoring surrounding the 44-year-old, unlined ash pond (or the 21-year-old lined ash pond for that matter) at the Labadie plant site. Tr. Vol. 5, at 159:8-160:2. As a result, no one, including Ameren, knows for certain the effects of the leaking coal ash wastewater on the groundwater at the plant site. If the groundwater is indeed contaminated – as has occurred in similar circumstances elsewhere, including at Ameren's Illinois plants -- then no one knows for certain where the plume of contamination has migrated and where it is heading.

That doesn't stop Ameren from sounding the all clear, however. It treats the absence of data as proof positive that the site is clean. *See, e.g.,* Ex. 3 at 11:14-19. To distract attention from the utter absence of groundwater monitoring data surrounding the long-leaking ash pond, Ameren hired a contractor to drill three wells upgradient from the ash ponds. The testing showed

[13] Although Ameren's Giesmann indicated in his prefiled sur-surrebuttal testimony that the company installed two slurry walls, Ex. 3 at 11:14-16, its NPDES renewal application to DNR refers to "a" slurry wall. Ex. 13 at 20 (pdf p.4).

no contamination—as one would expect because upgradient wells reflect groundwater before it flows toward the ash ponds.

Finally, in a maneuver reminiscent of the children's game Twister, Ameren claims that the groundwater monitoring results from the proposed landfill site provide a clean bill of health for the ash ponds. This claim has two twists, neither of which passes the red-face test (unless one is actually playing Twister). The first twist is that the groundwater monitoring surrounding the proposed landfill site somehow substitutes as a monitoring program surrounding the ash ponds at the plant site. *See, e.g.,* Ex. 3 at 8:13-15. Yet if DNR ever requires Ameren to conduct groundwater monitoring around the ash ponds at the plant site, it is inconceivable that Ameren would submit as its proposal the existing landfill monitoring network – or that DNR would even consider accepting such a proposal. In fact, DNR's draft renewal NPDES permit for Labadie calls for a site-specific study of groundwater flow conditions at the plant site before Ameren is even required to propose a groundwater monitoring plan for the ash ponds at the plant site. Tr. Vol. 5 at 161:17-162:13.

The second twist is that dirty means clean. In other words, Ameren contends that the groundwater monitoring results at the landfill site – which show high levels of contaminants associated with coal ash -- somehow demonstrate that the ash ponds have had no effect on groundwater quality at the landfill site. With test results from three wells upgradient of the ash ponds that show no contamination, and test results from the landfill monitoring system downgradient from the ash ponds that show high levels of contamination, Ameren boldly asserts that the ash ponds have had no adverse effect on the groundwater. To explain away what seems like a pretty straightforward description of groundwater flow, Ameren clings to the unsubstantiated theory that the high levels of contaminants at the landfill site are naturally

occurring, even though the high levels occurred downgradient from an unlined ash pond that has been leaking for more than 20 years and even though the only tests performed on groundwater upgradient from the ash ponds show no contamination.

Ameren could of course settle the question – by monitoring the groundwater around the ash ponds. But Ameren seems far more willing to develop implausible theories than it is to obtain hard facts that could prove – or disprove – its hope that the long-leaking ash pond has not harmed local groundwater quality.

2. Ameren's Experience with Groundwater Contamination in Illinois Does Not Support its Qualifications to Build and Operate the Proposed Labadie Landfill.

Ameren's problems with leaking coal ash ponds and groundwater contamination are not confined to Missouri. In Illinois, where groundwater monitoring is required, the state has cited Ameren for ash pond leakage causing violations of state groundwater regulations. Exs. 312-318.

In the wake of the coal ash disaster at Kingston, Tennessee,[14] the Illinois Environmental Protection Agency (IEPA) undertook an evaluation of coal ash impoundments at power plants across the state. Ex. 355 at 5 (pdf p. 7). It sent letters to the owners/operators of the ash ponds, requiring that: "pursuant to Section 4 and 12 of the Illinois Environmental Protection Act" each plant "must submit a hydrogeologic assessment plan to characterize the subsurface hydrogeology and evaluate the potential for contaminant migration from the ash pond." Ex. 355, pdf pp. 143, 146, 148, 150. After Ameren conducted monitoring, IEPA cited four of Ameren's Illinois power plants—Coffeen, Grand Tower, Meredosia and Newton-- for ash pond leakage contaminating groundwater in violation of Illinois law. Exs. 312-15. Groundwater monitoring at those locations

[14] Ex. 307; Ex. 355 at pdf p.7 ("On December 22, 2008, approximately 3.1 million cubic feet of fly ash and water were released to the Emory River and nearby land as a result of an ash pond failure at a Tennessee Valley Authority facility in Kingston, Tennessee.")

revealed arsenic, boron, iron, manganese, sulfate, total dissolved solids (TDS), and zinc levels many times greater than Illinois law allows, as well as pH levels significantly more acidic than permissible. *Id*. On February 13, 2013, the IEPA issued Notices of Intent to Pursue Legal Action for Ameren's failure to adequately respond to the violation notices. Exs. 316-318.

Although Ameren contends here that the Illinois violations have no bearing on the qualifications of Ameren Missouri, Tr. Vol. 5 at 53, in reality Ameren's Illinois and Missouri companies are closely intertwined. Both are wholly-owned subsidiaries of Ameren Corporation, which reports financials for both Ameren Illinois and Ameren Missouri on the same 10-K form. Ex. 107, Part 1, at 77-84 (pdf pp. 83-92). Ameren's 2012 Annual Report jointly discusses Ameren's Illinois and Missouri operations. Ex. 343 at 18-19 (pdf pp. 20-21). Both are supplied with essential services by Ameren Services, another Ameren subsidiary. Ex. 107, Part 2 at 140 (pdf p. 50). Most importantly, both the Illinois and Missouri subsidiaries use Ameren Services for environmental support. In 2009 and 2010, the same employee of Ameren Services sent letters to EPA responding to the agency's inquiries to Ameren Missouri and to Ameren's Illinois affiliates regarding coal ash disposal practices at the companies' plants. Ex. 344 (Missouri response) and Exs. 345-346 (Illinois responses). Ameren cannot divorce itself from its Illinois affiliate's groundwater violations.

3. Ameren's Experience at Sioux Does Not Support its Qualifications to Build and Operate the Proposed Labadie Landfill.

Both Ameren and Staff rely on the Sioux plant's landfill as evidence that Ameren is qualified to build and operate the proposed Labadie landfill. That reliance is misplaced.

When Staff cited the Sioux plant's UWL as the sole basis for supporting Ameren's qualifications to build and operate the proposed Labadie landfill, the Sioux landfill was permitted

for wet ash – it was not a dry ash landfill as Ameren has proposed for Labadie. Ex. 103 at 4:10-13; Tr. Vol. 6 at 452:9-453:18. At that time, Ameren was constructing "the first dry cell" at Sioux – but construction was not even complete and clearly there was no dry ash landfill operating experience. Ex. 103 at 4:10-13; Ex. 357. In other words, Staff found Ameren qualified based solely on the fact that it had obtained a permit to build to operate a dry ash landfill at Sioux. Ex. 103 at 4:10-13. In addition, Staff's unsupported confidence in Ameren conveniently overlooked the fact that DNR is concerned about numerous high arsenic readings in groundwater at the Sioux site. Ex. 358 at 3; Tr. Vol. 6 at 457:4-13.

As of the evidentiary hearing, Ameren "just put [a dry ash landfill] in service." Tr. Vol. 5 at 206:23-207:1. Clearly it has no dry ash landfill operating experience to speak of. Neither the fact that Ameren began operating a wet ash landfill in 2010 nor the fact that it has just commenced operating a dry ash landfill at Sioux demonstrates its qualifications to build or operate the proposed Labadie landfill. Perhaps one day in the future, with operating experience and a clean record to show at Sioux, Ameren may be able to make that claim. But in the face of its spotty record handling coal ash landfills in both Missouri and Illinois, any such claim is aspirational at best, and quite premature.

IV. CONCLUSION

For these reasons, Intervenors ask the Commission to deny Ameren's Application for a Certificate of Convenience and Necessity in this matter. In the alternative, if the Commission decides that the Certificate should issue, Intervenors ask that it contain the conditions listed in Intervenors' Statement of Position at 2-3 (filed March 21, 2014) (Doc. # 166).

LABADIE ENVIRONMENTAL ORGANIZATION and SIERRA CLUB

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document was sent via email on April 30, 2014, to all parties of record.

/s/ Elizabeth Hubertz