

**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) File No. EA-2022-0245
For Approval of a Subscription-Based)
Renewable Energy Program)

**POST-HEARING BRIEF OF
THE MISSOURI INDUSTRIAL ENERGY CONSUMERS**

COMES NOW the Missouri Industrial Energy Consumers (“MIEC”) and for its Post-Hearing Brief states as follows:

Introduction

The issues for decision in this case are (1) whether to grant Ameren Missouri a Certificate of Public Convenience and Necessity (“CCN”) for the Boomtown Solar Project (“Project”) and (2) whether to approve Ameren’s proposed Renewable Solutions Program tariff (“RSP”).

In requesting the CCN for the Project, Ameren Missouri carries the burden of show by affirmative evidence that the public interest will be enhanced and that there is reasonable necessity for the service requested. The term “necessity” does not mean “essential” or “absolutely indispensable;” rather, it requires that the evidence must show that the additional service would be an improvement justifying its cost. The Commission’s decision that the CCN serves the public interest will be sustained so long as there is substantial evidence to support it. *See State ex Rel. Beaufort Tr. v. Clark*, 504 S.W. 2d 216 at pp. 219-220 (Mo. Ct. App. 1973); *cited in State ex rel. Intercon Gas, Inc. v. Public Service Commission*, 848 S.W.2d 593 at p. 597 (1993).

Ameren Missouri has met its burden of proof for approval of both the Project and the RSP, which are presented jointly for decision in this case. Ameren Missouri has produced evidence that the new capacity provided under is necessary, and the two proposals are integrally related regarding planning, need and system benefits. The combined Project and RSP provides a greater benefit to the public interest than either proposal standing alone because the subscribers (1) make a 15-year commitment to pay above-cost fixed costs of the Project, thereby reducing Project costs to all other customers; and (2) bear the risk if the Project produces less solar generation than expected, reducing Project risk to all other customers; (3) gain the benefit of renewable energy credits (“RECs”) to reduce their cost of greenhouse gas emissions and (4) obtain an important form of service while simultaneously.

Due to competition for renewable project resources, time needed for Project completion and the limited period of availability for lucrative federal production tax credits, the Commission should approve the combined proposal now in this proceeding with a modification to the RSP’s cost provision reflection the availability of Production Tax Credits (“PTCs”) pursuant to the Inflation Reduction Act.¹

I. Ameren Missouri’s evidence shows that the Project is needed pursuant to its Preferred Resource Plan.

Ameren Missouri evidence in this case shows that it faces a projected shortfall in the resources needed to cover its load and planning reserve margin requirements as soon as 2028 if it fails to add additional renewable generation now and steadily over time.² Pursuant to certain Company scenarios, if high carbon prices were imposed on its remaining coal-fired

¹ This proposed modification is discussed in Section IV below (pp. 9 – 11).

² Ex. 3, Direct Testimony of Matt Michels, p. 9, l.9 - p.10, l. 2; Ex. 4, Surrebuttal Testimony of Matt Michels, p. 19, l. 20 - p. 21, l. 6.

generation, or if loads grow more than currently projected due to factors such as increased electrification, both high carbon and higher loads would produce an energy shortfall as soon as 2026.³ Ameren Missouri's long-term planning includes the retirement of coal-fired facilities and the consequent reduction in greenhouse gas emissions.⁴ The Project and the proposed RSP will help the Company meet these needs as discussed further below.

II. Joint approval of the CCN and RSP in this proceeding will permit Ameren Missouri to add needed resources on a timely basis while maximizing financial benefits to the Company and its customers.

Ameren Missouri provides evidence that power producers and consumers compete for scarce resources when seeking to secure renewable facility siting, permits and equipment.⁵ Project development can take years, and if a project is optioned, the failure to timely execute on that option allows other interested parties to acquire the site, equipment and permits.

Ameren Missouri also provides evidence that it is not feasible to wait until a projected shortfall about to occur before adding renewable resources, given the implementation timeline for renewable projects and the limited availability of suitable projects. Ameren Missouri and other utilities cannot readily build or contract for renewable projects, which causes a real need to build the projects that are available to now, adding additional projects as they become available.⁶ Ameren Missouri's evidence is that the need for the Project and other renewable resources is to serve its customer base, and that the planned retirements of three of its four coal facilities by 2030 are triggering a dramatic swing from its currently abundantly long position to a shortage forecasted to start in 2028 under normal conditions or

³ Ex. 4, Michels Surrebuttal, p. 23, Figure 4.

⁴ *Id.*

⁵ Ex. 1, Direct Testimony of Ajay Aurora at p14, l. 16 – p. 15, l. 12.

⁶ Ex. 2, Surrebuttal Testimony of Ajay Arora, at p. 22, l. 7 - p. 25, l. 13.

earlier under other plausible scenarios.⁷ Ameren Missouri also provides evidence that if it is able to execute its Preferred Resource Plan, which includes the Project, it should have sufficient resources every year long-term and the Company would be expected to be a net seller of electric energy at levels roughly equivalent to what it has seen historically.⁸

Ameren Missouri's evidence shows that acting to obtain renewable resources now will (1) avoid deployment of less beneficial resources that might occur due to limited availability of viable tax credits, transmission constraints causing delays or higher costs, or higher financing rates due to delaying transition from fossil fuels (2) maximize the benefit of lucrative production tax credits ("PTCs") made available by the Inflation Reduction Act of 2022, which expands and extends tax credits available to solar projects and (3) provide a hedge against various market risks, including risks associated with power prices, carbon prices and fuel prices.⁹

III. Joint approval of the Project and RSP in this proceeding would authorize Ameren to provide an important form of service that benefits all customers and could not otherwise be readily obtained.

Large power users face major obstacles in building or acquiring renewable power. Under Missouri law, Ameren Missouri has the exclusive right to provide power in its service area and customers are barred from purchasing renewable power from alternative suppliers. As a result, its Missouri customers can only obtain wind or solar power by building their own generation.¹⁰ This requires the customer to (1) acquire land adjacent to manufacturing

⁷ Ex. 3, Michels' Surrebuttal, p. 11, l. 11 - p. 12, l. 2; p. 18, l. 4 - p. 19, l. 11; p. 23, ll. 1-11.

⁸ *Id.* at p. 25, ll. 1 - 11.

⁹ *Id.* at p. 39, l. 5 - p. 40, l. 4.

facilities, offices and other buildings, which in many cases would be physically impossible¹¹ (the Boomtown Solar Project requires acreage the size of 1200 to 2400 football fields)¹² (2) obtain government permits and approvals; (3) obtain equipment for installations; (4) develop the expertise to operate the facilities; (5) invest large amounts of capital which would provide greater returns if invested in the customer's core business.

The evidence in this case shows the importance of the Project and RSP to major Missouri employers. MIEC witness Mark Schuerman is the Global Product Supply Sustainability Lead with Bayer Crop Science and Bayer Research and Development LLC ("Bayer"). Bayer is a global life science company with a more than 150-year history and core competencies in all areas of health care and agriculture.¹³ Bayer makes innovative products to help find solutions to major challenges of our time, such as the need for improved medical care and adequate supply of food. Bayer improves people's quality of life by preventing, alleviating and treating diseases. Bayer also helps to provide a reliable supply of high-quality food, feed and plant-based raw materials.¹⁴

Bayer's goal is to be climate neutral by 2030. To accomplish this, Bayer will implement energy efficiency measures at its sites and, where possible, convert 100 percent of the purchased electricity to renewable energies.¹⁵

Bayer has two important sites in Ameren Missouri's service territory. Due to its large energy demand as well and current regulation, Bayer has limited available options to reach its sustainability targets. One option would be for Bayer to invest in a solar project, but

¹¹ Even in the rare instances where a customer is located on a transmission line, most of these obstacles will still be present.

¹² Tr. pp. 202, l. 9 – 204, l. 9.

¹³ Ex. 302, Surrebuttal Testimony of Mark Schuerman at p. 1, ll. 5-10.

¹⁴ *Id.* at ll. 10-15.

¹⁵ *Id.* at p. 2, ll. 8-10.

Bayer has limited capex for infrastructure projects. Bayer would prefer to invest capex in its core business R&D and production, allowing Bayer and Ameren Missouri to concentrate on what each does best. Another option would be through the purchase of market RECs, but this would result in higher costs and lower sustainability benefits because it will not increase the production of renewable energy. For these reasons, Bayer has concluded that its best option at this time is to accomplish its sustainability targets for Missouri facilities with the program proposed in this case.¹⁶

The importance of the Project and RSP to major employers is also shown by the testimony of MCEG witness Andrew Teague. Mr. Teague is Senior Manager, Energy Services for Walmart.¹⁷ Walmart aggressive and significant company-wide renewable energy goals including (1) to be supplied 100 percent by renewable energy by 2035 and (2) zero carbon emissions in its operations without the use of offsets by 2040. Walmart's understanding is that the RSP and the Project are tied, and Walmart has made a commitment to capacity to the Project under the RSP.¹⁸

The Project and the RSP combine to maximize the benefits of necessary new capacity for all customers. Non-subscribing customers benefit because subscribers must pay an amount that is higher than the cost of the project in exchange for obtaining renewable energy credits ("RECs"). Non-subscribing customers also benefit because the subscribers take on a 15-year obligation to which subsidize the project's fixed cost thereby reducing risk to all other ratepayers. Subscribers benefit from the opportunity for RECs to assist them in reach

¹⁶ *Id.* at p. 2, ll. 16-24 – p. 3, ll 1-2.

¹⁷ Ex. 400, Rebuttal Testimony of Andrew Teague, p. 1, ll. 14-16.

¹⁸ *Id.* at p. 6, ll. 6-9.

their greenhouse gas (GHG) emission reduction goals, which will in turn promote Missouri's economic development.

Staff fundamentally misunderstands the benefits of the Project and RSP. Without basis, Staff claims that the proposal in this case is designed merely to advance internal corporate goals of certain customers.¹⁹ This is wrong – the evidence establishes that the purpose of the Project and RSP is to add new resources (1) that Ameren Missouri's evidence has shown to be necessary regardless of the subscribers (2) through a program that maximizes benefits to all customers (3) while providing an important service that cannot currently be readily obtained. Customer business goals are not presented as evidence supporting for the Project and RSP. Customer business goals are presented solely for the purpose of the decision of subscribing customers to pay increased fixed costs and bear the substantial risk of a 15-year commitment to a specific resource that would have been needed regardless of their subscription. The evidence regarding the business goals of subscribing customers is not presented as a reason the Commission should approve the proposals. Rather, it is presented to explain the reason the subscribers support this proposal: they find the value of RECs to their companies outweighs the higher fixed cost risk of the subscription.

The Staff's recommendation seems to be based on the mistaken notion that it is easy to find renewable projects and to acquire and execute on the contracting and construction in a short span of time. This is wrong. As noted by MIEC witness Brubaker and Ameren witness Aurora, full cycle development of a renewable project often takes as many as many 8 years.²⁰ It is not like ordering an automobile – it's not an "off-the-shelf" standard product that can be had whenever desired. Developing renewable projects is time consuming and expensive.

¹⁹ Ex. 12P, Surrebuttal Testimony of Steven Wills, p. 15, ll. 5-16.

²⁰ Ex. 301, Brubaker Surrebuttal at p. 3, ll. 1-13; Aurora Direct, Ex. , p. 14, l. 6 – p. 15, l. 12.

Even if a project is option, it may be the case that the failure to timely execute on the option allows other interest parties to acquire the site / solar panels and other equipment and permits.

There is significant competition in the marketplace for sites and the equipment to construct renewable facilities. This is only becoming a bigger problem as we go through time because of the increased demand on the part of many utilities and individual purchasers for these scarce resources. Failure to act when sites and equipment are available may result in a foregone opportunity and a workable schedule may not be recoverable later, as shown in three specific examples set forth by MIEC witness Brubaker.²¹ In these examples, Mr. Brubaker discusses three specific examples of renewable resources in the Midcontinent Independent System Operator (“MISO”) territory that were option or partially developed only to face setbacks, additional time delays, and loss of project availability. The lesson is that there is substantial competition for sites for renewable resources, which means if they are not available now they will be even less available or more difficult to acquire in the future. It is important to take the steps to secure needed sites and capacity when they are available, rather than speculate on future availability and bear the risk of these sites becoming unavailable.²²

Despite supply chain disruption, the demand for solar resources remains high and is expected to increase over time is shown Mr. Brubaker’s Surrebuttal Schedule MEB-2, “Solar Market Insight” publication by Woods Mackenzie, a respected authority on solar industry interest and trends.²³

²¹ Ex. 301, Brubaker Surebuttal, p. 4, l. 12 – p. 6, l. 2.

²² *Id.* at p. 6, l. 19 – p. 7, l. 2.

²³ Ex. 301, Brubaker Surrebuttal Schedule MEB-2.

The Project and RSP present a valuable and long-sought opportunity for these large power customers and provide them with an important form of service that they could not otherwise practically obtain. As a result, the subscribers have determined that the value of the Project and RSP to their businesses exceeds the above-cost rate that they will pay for the Project's fixed cost and the additional risk that they will bear in making the 15-year commitment to the Project.

IV. Ameren Missouri's RSP should be required to reflect a downward adjustment to reflect the lower cost of the Project associated with the availability of Production Tax Credits pursuant to the federal Inflation Reduction Act.

The RSP is designed to recover the cost of the Project. The subscribers' payments under the RSP primarily based on the expected cost of the Project as expressed in the RRC component of the RSP. Ameren Missouri witness Steve Wills explains . . . [T]he basic philosophy is that the charge reflects the costs associated with the development and operation of the Program resources for the duration of the term of their subscription. The cost estimated for this process includes consideration of the return on and return of investment in the resources, as well as ongoing expenses.²⁴

The RSP is key to delivering Project benefits to customers. Since Ameren Missouri initially proposed the Project and RRC, the costs of the project have been greatly reduced by the availability of Production Tax Credits provided pursuant to the federal Inflation Reduction Act. This reduction in cost is shown in Mr. Brubaker's Rebuttal Testimony:

²⁴Ex. 300, Brubaker Rebuttal at p. 5, ll. 8-17.

Boomtown Solar/RSP Economics⁽¹⁾

Line	Description	Solar Project Only (\$/Million) (1)	Renewable Solutions Program⁽²⁾ (\$/Million) (2)	Total Benefit to Non- Subscribers (\$/Million) (3)
1	Original Filing	\$1.1 Benefit	\$11.7 Payment	\$12.8 Benefit
2	Revised Filing with PTCs	\$16.8 Benefit	\$11.7 Payment	\$28.5 Benefit
3	Change	\$15.7	-0-	\$15.7

⁽¹⁾Net Present Value: Base Cost and Capacity Factor, Assumptions, Weighted Average Price Scenario

⁽²⁾Payments by Program Subscribers

Sources:

Line 1: Direct Testimony of Lindsey Forsberg, page 17

Line 2: Supplemental Direct Testimony of Lindsey Forsberg, unnumbered page 6.

Nevertheless, Ameren has not proposed to reduce the RRC to reflect this reduction in cost.²⁵

It would be appropriate for Ameren Missouri to decrease the RRC based on the improved economics (reduced costs) of the Project. Since the RRC was designed to reflect the costs associated with the Project, a reduction in the Project costs should result in a downward adjustment in the charge to subscribing customers by means of a lower RRC.²⁶

The MIEC has proposed in this case that the Commission should reduce the Renewable Resource Charge (“RRC”) to subscribers by 5 percent to reflect Ameren Missouri’s revised submission to reflect an additional \$15.7 million in benefits from the initial submission. Ameren’s revised its initial submission to use production tax credits rather than investment tax credits to calculate the benefit of the Project. As a result of this revision, the benefits of the Project increased by \$15.7 million on a net present value basis. As currently proposed, only non-subscribing customers would receive the value of this \$15.7 million benefit. MIEC recommends that the Commission reduce the annual RRC by at least 5 percent, which would reflecting at least 50 percent of this \$15.7 additional benefit. This approach is consistent with Ameren Missouri’s position when first approaching customers with a draft of the RRC (cost) component of the RSP.²⁷ Ameren Missouri’s initial version was based on the economics of the project as it was understood by the Company at the time. Subsequently, when Ameren Missouri found that it had to accept higher prices from the project developer to reflect inflation-driven and supply-driven increases in the expected cost of the Project, it revised its draft to increase the charges to customers in the RRC to reflect these higher prices. Given that Ameren Missouri increased the RRC to require customers to

²⁵ *Id.* at p. 6, ll. 6 – 9.

²⁶ Ex. 300, Brubaker Rebuttal at p. 6, ll. 6 – 15.

²⁷ *Id.* at p. 6, l. 16 – p. 7, l. 14.

pay higher prices when the project cost increased, equity requires that RRC should reflect lower prices now that project costs decreased.

Respectfully submitted,

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**CERTIFICATE OF
SERVICE**

I do hereby certify that a true and correct copy of the foregoing document has been emailed to all parties on the Commission's service list in these cases.

/s/ Diana M. Plescia