

**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,)	File No. EA-2012-0281
Operate, Maintain and Otherwise Control and Manage)	
A Utility Waste Landfill and Related Facilities at its)	
Labadie Energy Center)	
)	

**INTERVENORS LABADIE ENVIRONMENTAL ORGANIZATION
AND THE SIERRA CLUB’S STATEMENT OF POSITION**

Come now Intervenors Labadie Environmental Organization (LEO) and Sierra Club (collectively, Intervenors) in response to the Commission’s Order Establishing Procedural Schedule, as amended, and state as their position on each of the issues set out in the List of Issues, Order Of Witnesses, Order of Cross-Examination and Order of Opening Statements filed on March 7, 2014 as follows:

INTERVENORS’ POSITIONS RESPECTING ISSUES SET OUT IN LIST OF ISSUES

1. *Does the evidence establish that the utility waste landfill for which Ameren Missouri is seeking a certificate of convenience and necessity (CCN) is necessary or convenient for the public service?*

Intervenors’ Position: No. It is the Applicant’s burden to produce evidence and show that the CCN should issue. *In Re KCP&L Greater Missouri Operations Co.*, No. EA-2009-0118, 2009 WL 762539, at *9 (Mo. P.S.C. Mar. 18, 2009) (“As petitioner, GMO has the burden of proving that CCNs for the Facilities are necessary or convenient for the public service.”). The Commission makes its determination regarding the issuance of a CCN using a five-factor test: (1) whether there is a need for the facility proposed in the application; (2) whether the applicant is qualified to operate the facility proposed in the application; (3) whether the applicant has the

financial ability to construct and operate the facility proposed in the application; (4) whether the facility proposed in the application is economically feasible when all costs are taken into account; and (5) whether the proposed facility is in the public interest. *In Re Tartan Energy*, GA-94-127, 3 Mo. P.S.C.3d 173, 177 (1994).

Ameren, as applicant, has not proven that there is a need for the facility as proposed in the application because it never examined any alternative sites for the disposal of the coal ash from the Labadie Energy Center. Likewise, Ameren has not proven that it is qualified to operate a coal ash landfill for the disposal of coal waste in light of its history of problems in Missouri and Illinois. Further, Ameren has not shown that the proposed facility is economically feasible when all of the costs are taken into account because it has failed to include environmental and repair costs and liabilities attributable to groundwater contamination, flooding, or earthquakes. In addition, building the proposed landfill at this risk-prone location is not in the public interest.

2. *If the Commission decides to grant the CCN, what conditions, if any, should the Commission impose?*

Intervenors' Position: Although Intervenors believe the CCN should not be granted, if the Commission does grant the CCN, it should condition its issuance as follows: (1) Before commencing construction of the landfill, Ameren must conduct comprehensive groundwater monitoring at its existing coal ash ponds, with monitoring wells both upgradient and downgradient from the ponds, and with both shallow and deep wells, pursuant to a monitoring plan approved by the Missouri Department of Natural Resources (DNR), and submit a report containing all monitoring data and analyses to the DNR and the Commission; (2) Ameren shall not be able to charge, include in its rate, or in any other way recover from ratepayers and members of the public costs attributable to environmental damage caused by the landfill,

including damage to the landfill, river and surrounding area associated with flood events, damage to the landfill, river and surrounding area associated with seismic action, and contamination of groundwater resources associated with the existing ponds and/or proposed landfill; (3) Ameren shall be responsible for all costs in excess of its current estimate of costs to construct and operate the proposed landfill and shall not be able to charge, include in its rate, or in any other way recover any excess costs from ratepayers and members of the public; (4) Ameren must provide evidence of financial responsibility to remediate damage to, and contamination caused by, the landfill after the formal post-closure period addressed by DNR regulations; (5) Ameren must comply with all applicable zoning, construction, operating, safety, and environmental requirements, and all other applicable laws and regulations, including obtaining and filing with the Commission the following permits and licenses: (a) a Utility Waste Landfill construction permit issued by the DNR; (b) compliance with all Franklin County construction and zoning-related rules and regulations and the issuance of a zoning permit by Franklin County allowing for the construction of the landfill at the proposed location; (c) any required transportation and/or road permits; (d) any floodplain development permits; and (e) any land disturbance or stormwater permits.

Respectfully submitted,

/s/ Elizabeth Hubertz
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document was sent via email on March 21, 2014, to all parties of record.

_____/s/ Elizabeth Hubertz