BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Staff's Review of Commission Rules 4 CSR 240-20.060 (Cogeneration), 4 CSR 240-3.155 (Filing Requirements for Electric Utility Cogeneration Tariff Filings) and 4 CSR 240-20.065 (Net Metering).	)	File No. EW-2018-0078
In the Matter of a Working Case to Explore Emerging Issues in Utility Regulation.	)	File No. EW-2017-0245

RESPONSE REGARDING STANDARD OFFER CONTRACTS

COMES NOW Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri" or "Company"), and for its *Response to the Order Directing Utilities to Evaluate Impacts of Standard Offer Contracts* ("*Order*") issued on July 25, 2018, by the Missouri Public Service Commission's ("Commission"), states as follows:

BACKGROUND

1. On April 5, 2018, the Commission's Staff ("Staff") filed its *Report on Distributed Energy Resources* ("*Staff Report*") in File No. EW-2017-0245. The *Staff Report*, among other things, recommended the Commission order each utility to file an evaluation of impacts, including distribution system impacts, of raising the size of Standard Offer Contracts ("SOCs") for generation to 1 MW, 2.5 MW, and 5 MW. On July 24, 2018, Staff submitted its *Motion for Responses Regarding Standard Offer Contracts* ("*Staff Motion*") in both File Nos. EW-2017-0245 and EW-2018-0078 reiterating this

recommendation. On July 25, 2018, the Commission issued its *Order* requiring utilities to complete this analysis and submit their responses by August 24, 2018.[1]

2. Ameren Missouri submits in this Response a general analysis in response to *Staff's Motion* and the Commission's *Order*. However, Ameren Missouri also feels it is important to set an appropriate context regarding any potential action regarding SOCs and the Public Utility Regulatory Policy Act ("PURPA"), particularly considering recent statements that suggest PURPA may be evolving. Accordingly, the remainder of this Response is divided into the following sections:

I. PURPA

II. General SOC System Impact Analyses

I. PURPA

3. PURPA was enacted 40 years ago in an effort to encourage energy conservation, optimize the efficiency of electric utility facilities and resources, and provide an equitable rate for electric consumers. At that time, the installation of renewable and cogeneration facilities, the interconnection of those facilities, and the ability to sell energy produced by those facilities presented financial barriers for many developers. As technology and market access moved forward, Congress passed the Energy Policy Act of 2005 ("EPACT") which made numerous energy reforms, including the prospective rollback of an electric utility's obligation to purchase the output of a qualifying facility ("QF") when that QF has access to competitive markets.

[1] As indicated in its April 16, 2018, Response to Staff Report on Distributed Energy Resources submitted in File No. EW-2017-0245, the Company does not believe the Commission possesses the authority to issue a requirement of general applicability without conducting a proper rulemaking under Chapter 536, RSMo. These workshop dockets simply provide a vehicle for informal discussions and as a repository for documents. Subject to those concerns, however, the Company has endeavored as best it can to file this evaluation as requested in the Commission's July 25, 2018 *Order*. As discussed herein, it is in any event not possible to perform the kind of "analysis" the Staff desires.

4. In the 40 years since PURPA passed, and even in the 13 years since EPACT passed, the energy industry – including technology abilities and pricing - has continued to change, and increased access to energy markets has occurred. FERC, acknowledging this changing environment, has been accepting comments regarding PURPA implementation issues in the ongoing Docket No. AD-16-16.

5. On June 27, 2016, FERC issued in Docket No. AD-16-16 its *Supplemental Notice of Technical Conference* noting that the technical conference "will focus on two issues: the mandatory purchase obligation under PURPA and the determination of avoided costs for those purchases." Numerous parties have submitted comments to FERC in that docket. Importantly, in response to members of the House and Senate who contacted FERC about PURPA reform, FERC Chairman Kevin J. McIntyre publicly filed three letters in FERC Docket No. AD-16-16, one of which is included with this Response as Attachment A. As Chairman McIntyre stated in that letter:

> On May 17, 2018, at the Commission's public meeting, I announced that the Commission is initiating a review of its PURPA regulations. Recognizing that much has changed since the passage of PURPA in 1978, this review will examine what updates may need to be made to the Commission's PURPA regulations given these changes….

6. Also of particular note is a letter submitted to FERC on July 20, 2018, by the National Association of Regulatory Utility Commissioners ("NARUC"), (included as Attachment B) which suggests three ways to reform PURPA:

A. States should be able to "replace the use of administratively determined avoided costs with a more competitive process," and that FERC should create a "'yardstick' that signals to utilities and States outside of the current RTOs/ISOs what

characteristics of a wholesale market" would allow QFs to be deemed to have nondiscriminatory market access.[2]

B. The Commission should lower or eliminate the 20 MW threshold for the rebuttable presumption that a QF of or below that size does not have nondiscriminatory access to the market.[3]

C. The Commission should address the "disaggregation problem by making changes to the one-mile rule and other related reforms."[4]

7. What one can take away from the statements made in the ongoing FERC proceeding, in light of the evolving electric industry, is that PURPA needs, and is likely, to change. Those changes may include more competitive state processes that utilize both integrated resource planning processes and requests for proposals in the marketplace; those changes may also include the lowering or elimination of utility-QF purchase requirements. Given that FERC's PURPA rules are subject to so much scrutiny and potential revision, instituting SOCs that are tied to a structure that is at least 13 years old, may not be the best use of resources. While Ameren Missouri is happy to provide the requested information, this may not actually be the best time to make any final policy decisions regarding what to do with that information.

II. SOC System Impact Analyses

8. Unfortunately, it is not possible to perform a general evaluation of impacts, including distribution system impacts, of raising the size of SOCs to 1 MW, 2.5 MW, and 5 MW because 1) distribution system pacts would be facility-specific, and 2) QF participation rates are not a function of only the capacity of the SOC, but are very dependent upon the price and term of the SOC.

[2] July 28, 2018, NARUC Letter submitted in FERC Docket No. AD-16-16, pp. 1-2.
[3] *Id.*, p. 3.
[4] *Id.*, p. 4.

9. Distribution system impacts are highly dependent on the specific system conditions existing at the geographical location where a facility installation is requested, along with the specific characteristics of that facility's installation. The Company does specific studies for facility installations for requests to interconnect to the system with the goal of maintaining the appropriate system voltage. That said, logic dictates that significant policy changes specifically designed to encourage increased installation of qualifying facilities could very well have negative system impacts depending on the characteristics of those facilities and the system where they are located. For example, if a developer wants to install a 5 MW QF in a sparsely populated rural area where the circuit is only configured to serve a maximum 4 MW load, there could well be a need for payment for system upgrades, constraints on the QF's output, or denying the QF the ability to locate in that area. The Company cannot conduct a generalized impact study, however, because the impacts are so site-specific.

10. That said, absent significant changes in both standard terms and fixed avoided cost rates, Ameren Missouri would not expect material changes in QF participation from increases in the standard offer limit to 1, 2.5, or 5 MW. Attempting to analyze increases in the standard offer limit above the current 100KW, without taking into consideration the various other factors which would impact the decision by a developer to put a QF into service, cannot be expected to yield meaningful results.

11. In their Joint Comments in this proceeding, Cypress Creek Renewables ("CCR") and Renew Missouri acknowledge that merely raising the scale of what SOCs are available is not the only determinant in spurring QF growth. CCR and Renew Missouri certainly suggest that, "a standard offer cap of 5,000 KW is most likely to stimulate solar

development" and that "capping the standard offer program to projects 100 KW and below limits the amount of new solar generation in Missouri." However, CCR and Renew Missouri also acknowledge that there are other factors to consider than just the size: "(s)imply put, the future of PURPA development in Missouri will hinge on the [*sic*] whether the Commission adopts specific requirements regarding contract term lengths" and "(t)here is no more important and complex aspect of PURPA implementation than the calculation of the avoided costs of energy and capacity." Clearly, the capacity of the standard offer alone is clearly not the determining factor in QF participation rates.

12. It is when increases in the level of the standard offer are combined with significant changes in standard terms and fixed avoided cost rates that material changes in QF participation rates could be expected. Analyzing the impact of a variety of size/term/price scenarios represents an effort at least as intensive - if not more so - as that required for a DSM potential study. As the Commission is aware, these potential studies are costly, take a significant amount of time to complete (i.e., typically a year) and require consideration of many factors, including (but not limited to) avoided cost projections and the characteristics of applicable technologies (and their associated costs).

13. Additionally, as the Commission is aware, Ameren Missouri's published avoided cost rate for QF's up to 100kw (150 kw as proposed in tariff filing JE-2019-0011) is based on avoided purchases from the Midcontinent Independent System Operator, Inc. ("MISO") market. Ameren Missouri's published avoided cost rate is structured this way because any purchase from a QF does not result in the displacement of Ameren Missouri's generation; instead, purchases from QFs reduce the Company's acquisition of energy from the MISO market. Ameren Missouri utilizes a methodology similar to that used to establish

market energy prices in its general rate cases – a three-year average of historical locational market pricing (LMPs) applicable to its load zone. This calculation of historical prices is unaffected by the level of the standard offer. However, if Ameren Missouri increased its standard offer limit above 100kw (150kw), it would remove the Company's current ability to utilize a larger QF project's actual operating characteristics in applying these prices to determine its avoided cost for that particular project. For example, solar farms do not produce energy around the clock. They have distinct production characteristics, and those characteristics should be used in the determination of the avoided cost applicable to their operation. Providing a standard offer that does not reflect these unique characteristics increases the risk that the payments to the QF will exceed the Company's avoided costs. The magnitude of these risks grows as the volume of QF purchases increases. As noted above, material changes in QF participation can be expected when increased levels in the standard offer are combined with potential increases in both standard term and fixed pricing, such as those proposed by CCR and Renew Missouri.

CONCLUSION

14. In summary, Ameren Missouri is unable to meaningfully study the capacity in isolation of other factors. Additionally, given PURPA is in such flux – with particular regard to contract requirements authorized by FERC's PURPA regulations and implemented by the states – making significant changes now to existing practices may be premature, and ultimately short-lived, though the impact to electric customers in Missouri of any agreements entered into in the interim as a result of those changes may exist for many years.

Respectfully submitted,

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d/b/a Ameren Missouri

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