

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.)

COMES NOW Union Electric Company, d/b/a Ameren Missouri (“Ameren Missouri”),
and for its response to the above-referenced motion, states as follows

2. Intervenor also, in apparent anticipation of Ameren Missouri making the argument that the hearing dates cannot be moved because of the need for a timely order from the Commission in this case,¹ attack Ameren Missouri's decision not to file its CCN Application until a time that roughly coincided with seeking a Construction Permit from the Missouri Department of Natural Resources ("MDNR").

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3. Intervenors also imply that Ameren Missouri's Application and direct testimony were somehow deficient, although they have never pointed to a single thing that Ameren Missouri should have included in its testimony in order to put on its case-in-chief, or a single requirement of the Commission's CCN rules with which Ameren Missouri allegedly did not fully comply.

4. Intervenors also represent that Ameren Missouri moved for an order rescheduling the original hearing dates of September 23-25, 2013, based on its desire to file surrebuttal testimony.

5. Intervenors' Motion is inaccurate on each of the foregoing points.

6. We won't repeat here all of the reasons Intervenors find themselves in the position of receiving surrebuttal testimony on September 13, 2013 – a full month before the evidentiary hearings are scheduled – rather than on June 29, 2013 – nearly three months before the hearings were originally scheduled. It suffices to say that if Intervenors had properly filed rebuttal testimony, they would not find themselves in that situation.

7. With respect to the timing of Ameren Missouri's CCN Application, it was filed nearly a year before Ameren Missouri requested an order. Entire rate cases are filed and processed in just 11 months. It made sense for Ameren Missouri to wait to file its CCN Application until it had final plans for the proposed Utility Waste Landfill ("UWL"), which it did not have until about the time it was filing its MDNR application in January 2012.

8. Ameren Missouri's direct case fully met its obligation to present its case-in-chief on direct. Ameren Missouri's filing fully complied with the Commission's CCN rules. Were that not the case, surely the Staff, or Intervenors for that matter, would have claimed otherwise. Applicants are not required to anticipate what the bases for any opposition to the Application

may be, but rather, are supposed to be fully advised of such bases when an opponent files rebuttal testimony. Then, as the party with the burden of proof, the applicant responds.

9. Nor did Ameren Missouri move to reschedule the original hearing dates because it desired to change them or for its own benefit. To the contrary, Ameren Missouri indicated in its August 1 Motion that while there was no requirement that the hearing dates be moved, it could understand that Intervenor might desire some additional time to prepare for hearing after receiving surrebuttal testimony. Therefore, Ameren Missouri suggested that the hearings be rescheduled to afford Intervenor additional time.² Later, all parties *jointly* moved to reschedule the hearing dates, both for that reason and because, by then, a conflict for counsel for Ameren Missouri and the Office of the Public Counsel had arisen due to the Court of Appeals scheduling of an oral argument on September 25, 2013.

10. As Ameren Missouri's Application indicates, the proposed UWL is needed by 2016. In order to ensure that it is available when needed, construction needs to begin in the Spring of 2014. In light of Intervenor's request, the undersigned counsel has inquired of those with responsibility for the proposed UWL who have indicated that contracts must be let by approximately March 1, 2014, and that before contracts can be let all required permissions (including the CCN) must be in-hand. It is the undersigned counsel's understanding that so long as the Commission acts on its Application by sometime in February 2014, this schedule can be accommodated.³

² Ameren Missouri's August 1, 2013 Motion, p. 30.

³ The Company's original request for an order by December 31, 2013, would have allowed it to avoid preparing and issuing bid packages before it actually had an order, but the Company can do so pending receipt of an order, waiting until after receipt of an order (assuming it is favorable to the Company) to actually enter into the contracts.

11. Consequently, Ameren Missouri is willing to consent to moving the hearing dates as Intervenors' request, on the condition that the hearing schedule is not delayed further.

Ameren Missouri would suggest that the dates for filing briefs also be moved, as follows:

- Initial Post-Hearing Brief December 12, 2013
- Reply Briefs January 7, 2013⁴

Respectfully submitted,

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ATTORNEYS FOR

UNION ELECTRIC COMPANY

⁴ Ameren Missouri is suggesting some additional time to file reply briefs in view of the Christmas and New Year's Day holidays that fall shortly after the initial briefs would be filed. The Commission would then have several weeks to deliberate before an order was necessary.

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was served via e-mail to the following on September 23, 2013:

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