

**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 Convenience and)	<u>File No. EA-2019-0021</u>
Necessity Authorizing it to Construct a Wind)	
Generation Facility.)	

**STAFF’S RESPONSE TO UNION ELECTRIC COMPANY D/B/A AMEREN
MISSOURI’S MOTION TO STRIKE PROPOSED ISSUES AND WITNESSES**

COMES NOW Staff of the Missouri Public Service Commission (Staff), by and through undersigned counsel, and for its *Response to Union Electric Company d/b/a Ameren Missouri’s Motion to Strike Proposed Issues and Witnesses* in this matter hereby states:

1. On February 8, 2019, Union Electric Company d/b/a Ameren Missouri (Ameren) filed its Motion to Strike Proposed Issues and Witnesses (Motion to Strike).
2. On February 11, 2019, the Commission issued its Order Establishing Time to Response to Motion to Strike, allowing parties wishing to respond to Ameren’s Motion to Strike the opportunity to do so no later than February 13, 2019.
3. In the Motion to Strike, Ameren identifies that the Commission ordered a procedural schedule requiring parties to submit pre-filed rebuttal testimony, surrebuttal testimony and cross-surrebuttal testimony.
4. Ameren further states in its Motion to Strike that rebuttal testimony was timely submitted by Atchison County, DeKalb County (the Counties), and the Tarkio R-1 School District; however, the Counties’ List of Issues, Order of Witnesses, Order of Cross-Examination, and Order of Opening Statements contains the names of

individuals who did not pre-file testimony in this case.¹

5. The Commission required pre-filed testimony in this case pursuant to 4 CSR 240-2.130 and has not directed that testimony be taken live rather than prepared in advance as allowed by 4 CSR 240-2.130(9). As such, the addition of witnesses who have not pre-filed testimony is contrary to the Procedural Order issued in this case and, as a result, receiving the testimony of additional witnesses in this manner would be fundamentally unfair and prejudicial.

6. Additionally, the Counties' proposed witness list does not provide much information regarding who the additional individuals are,² and on what topics the additional individuals seek to provide testimony.

7. Further complicating this uncertainty is that Staff does not know if an individual on that list will provide testimony regarding one of the Counties' additional eight (8) issues.

8. To the extent a response is required regarding the Counties' eight additional issues, Staff states that a majority of these additional issues are legal questions.³ As such, should the Commission order as much, these issues may be addressed in brief.

9. As noted in the Order Establishing Time to Response to Motion to Strike, there is a brief amount of time remaining before the start of the hearing. Because of this brief amount of time, Staff requests the Commission issue an order regarding Ameren's

¹ Tarkio R-1 School District filed its List of Issues, Order of Witnesses, Order of Cross Examination, and Order of Opening Statements on February 6, and incorporated the Counties' lists by reference.

² While these individuals are seemingly sorted out by county, there are very few titles included and thus very few ways to identify how these individuals may provide relevant expert testimony.

³ Again, Staff does not know if any of the additional individuals are attorneys or other legal experts to provide an opinion on these legal questions.

Motion to Strike at its earliest opportunity so that Staff and other parties have an opportunity to prepare for the hearing set to occur next week.

WHEREFORE, Staff files its *Response to Union Electric Company d/b/a Ameren Missouri's Motion to Strike Proposed Issues and Witnesses* for the Commission's information and consideration and requests that the Commission issue an order on Ameren's Motion to Strike so that parties may prepare for the hearing scheduled to begin on February 19, 2019.

Respectfully submitted,

/s/ Alexandra L. Klaus

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile, or electronically mailed to all parties and/or counsel of record on this 13th day of February, 2019.

/s/ Alexandra L. Klaus