

**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)	File No. EA-2019-0021
Necessity Authorizing it to Construct a Wind Generation)	
Facility.)	

**AMEREN MISSOURI’S RESPONSE IN OPPOSITION TO THE
APPLICATION TO INTERVENE OF DEKALB COUNTY, MISSOURI**

COMES NOW Union Electric Company d/b/a Ameren Missouri ("Company" or "Ameren Missouri"), and hereby submits this response in opposition to the Application to Intervene of DeKalb County, Missouri, as follows:

1. This case seeks a Certificate of Convenience and Necessity ("CCN") under subsection 1 of Section 393.170 (i.e., a "line certificate") for a wind production facility located entirely in Atchison County, Missouri. The Company will own no assets in DeKalb County, Missouri. These facts are established by both the verified Application on file in this case and the pre-filed and verified Direct Testimony and Schedules of Ameren Missouri witness Ajay K. Arora.

2. DeKalb County’s intervention application claims that it is “interested in this litigation because any decision issued in this matter may serve to reduce general revenue payable to the County from taxes that are now payable for the wind power properties that may be lost by virtue of changes requested by Petitioner if or when extended by a PSC decision, such reduction in tax revenue will have a permanent impact on County operations and the services provided to the citizens of DeKalb County, Missouri.”

3. The above-quoted justification for seeking to intervene in this case is simply incorrect. The issue raised by intervention applications filed by Atchison County (where the facility will be located) and three school districts in Atchison County clearly arises from those

entities' dissatisfaction with Missouri property tax laws which will require that the wind facility, like any generating facility owned by a Commission-regulated investor-owned electrical corporation, be treated as "distributable property" for property tax purposes. *See* § 153.054, RSMo. Under Missouri law, "distributable property" is assessed by the State Tax Commission and the property taxes generated by that property are distributed to the taxing authorities in the jurisdictions where the utility at issue provides electric service based on the proportion that the line miles of facilities present in each jurisdiction bear to the total line miles of facilities in all the jurisdictions where the utility provides service. However, a wind generation facility owned by an entity that is not a Commission-regulated investor-owned electrical corporation would be "locally assessed," meaning all the property taxes would be owed to Atchison County and other taxing authorities in Atchison County. Ameren Missouri does not dispute that under current Missouri law, Atchison County and the three Atchison County school districts that are seeking to intervene will receive less in total property taxes from the facility from ownership of the facility by Ameren Missouri than they would receive from the wind facility if it were owned by its developer, Brickyard Hills Project, LLC ("Brickyard Hills"). That does not, however, mean that Atchison County's (or its school districts') overall tax revenues will be reduced as compared to the case where there is no wind facility at all. The property tax question in Atchison County is simply how much tax revenue will the taxing authorities in that county receive with the wind facility as compared to there being no wind facility at all.

4. However, DeKalb County's tax revenues will not be reduced at all, regardless of whether the facility is owned by Brickyard Hills or by Ameren Missouri. To be clear, Ameren Missouri does not believe that any impact on tax revenues of Atchison County or any taxing authorities in Atchison County should have a bearing on whether the requested CCN in this case

is issued, but at least in the case of Atchison County and those other Atchison County taxing authorities it is true that the granting of a CCN that will allow Ameren Missouri to own the facility will, under current Missouri law, likely lead to lower tax revenues in that county from the facility (all else being equal) than it would receive if Ameren Missouri did not own the facility.

5. To the extent DeKalb County is straining to argue that a decision on *this* CCN case could have some impact on it in a *different* CCN case that perhaps could involve a DeKalb County wind facility (there are non-Commission-regulated entity owned wind facilities in DeKalb County already), such an argument fails. The Commission is being asked only to decide if this wind facility for Ameren Missouri is necessary or convenient for the public service within the meaning of that standard in § 393.170. Some other hypothetical case will be decided on the facts and merits of that case.

6. DeKalb County bears the burden to demonstrate that it has met the standards that apply to intervention requests. It must show that it has an interest different from that of the general public, or that granting intervention would serve the public interest. 4 CSR 240-2.075. As noted, its claimed interest does not exist at all. Moreover, while a county may not literally be the same as the “general public,” lacking the interest it claims leads to the reasonable conclusion that it has no interest that is different from the general public within the spirit of the rule. Moreover, its application doesn’t even allege that intervention will serve the public interest; it will not. For practical reasons – largely grounded in the Commission’s liberal approach to intervention requests – the Company is not opposing Atchison County’s intervention request. Atchison County will be able to adequately advance whatever arguments a county may believe to be relevant to the CCN request in this case given the distributable versus locally assessed state of Missouri law and how that relates to Company ownership of the facility (indeed, DeKalb and Atchison counties are

represented by the same attorney). While not directly on point, see *In re: the Pager Company, Order Denying Intervention*, Case No. CO-2003-0094, 2003 WL 21278016 (Mo. P.S.C.), where a group of telephone companies who were concerned that a pager company's application to become a telecommunications carrier sought to intervene on the grounds that the pager company would operate in their service areas. The Commission denied the intervention request because the pager company did not seek authority to operate in any such area. This is analogous to the situation at bar in that the wind facility at issue is wholly within Atchison County and has nothing to do with DeKalb County, or DeKalb County's tax revenues.

WHEREFORE, Ameren Missouri respectfully requests that the Commission deny DeKalb County's Application to Intervene.

Respectfully submitted,

/s/ James B. Lowery

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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing Response has been e-mailed, this 5th day of November, 2018, to counsel for the parties of record and for proposed intervenors.

/s/ James B. Lowery
James B. Lowery