

**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 Approval            )        File No. EA-2022-0245  
of a Subscription-Based Renewable Energy Program.    )

**AMEREN MISSOURI’S RESPONSE TO STAFF’S STATUS REPORT AND  
PROCEDURAL RECOMMENDATION**

COMES NOW Union Electric Company d/b/a Ameren Missouri ("Company" or "Ameren Missouri"), and pursuant to 20 CSR 4240-2.080(13), hereby responds to the above-referenced Staff filing (the “Procedural Recommendation”), as follows:

1. Ameren Missouri principally takes issue with just one aspect of the Staff’s Procedural Recommendation, that is, Staff’s recommendation that the deadline for rebuttal testimony in this case be established as December 21, 2022. The bases for the Company’s disagreement with that date are set out below.

2. The Company initiated this case more than seven weeks ago. It made all of its workpapers underlying its direct case available one week later.

3. Staff’s Procedural Recommendation notes that it has “propounded data requests and awaits responses which will, in turn, need analysis.” To be clear, as of the Staff’s filing of the Procedural Recommendation the Company had received and timely responded to 15 of the 16 Staff data requests that were sent to it as of that date and for which a response is due (in all but two cases Ameren Missouri responded early).<sup>1</sup> On August 26, 2022, Staff sent two additional data requests and timely responses will be provided to both. Staff goes on to state that since the facility in question is in Illinois there is a “high likelihood” that it will need to propound follow-up data

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<sup>1</sup> Although the response was ready to provide within the normal 20-day response time, the Company inadvertently failed to complete the administrative steps needed to submit one of the 16 in EFIS on time but has since provided the response. In any event, the response was to provide proposed in-service criteria which are in all material respects identical to in-service criteria previously agreed upon between the Company and the Staff for a prior solar facility.

requests. The point of this discussion, it appears, is that Staff is suggesting that some additional discovery will be forthcoming and that it will need some time to both propound the data requests and review the responses.

4. The Company is quite mindful of the fact that the Staff is in the middle of a very busy time, including completing the hearing of the Evergy rate cases (File Nos. ER-2022-0129 & ER-2022-0130), processing the Missouri-American Water Company (File No. WR-2022-0303) and Spire rate cases (File No. GR-2022-0179, with hearings to occur in the Spire case in late November/early December), and processing the pending Ameren Missouri electric rate case (File No. ER-2022-0337), together with two pending Ameren Missouri solar facility certificate of convenience and necessity cases (this case and File No. EA-2022-0244).

5. Staff's proposed schedule contains a rebuttal deadline of December 21, leaving just two business days (December 22-23) until the Christmas holiday weekend, which will extend through Monday, December 25. For the most part, such a schedule means (absent Company personnel and representatives addressing rebuttal testimony during the Christmas holiday) that the Company will be significantly limited in its ability to evaluate and address rebuttal testimony until December 26. While it is impossible to know the extent of the other parties' rebuttal testimony, it is reasonable to expect there will be testimony of a significant number of witnesses, given there are six non-Company parties to the case.

6. As of December 16, 2022, this case will have been pending for 155 days. That is approximately the same length of time afforded the Staff and other parties in general rate proceedings to audit and prepare full direct cases in response to the utility's direct case filing, which typically involves testimony from 20, or often significantly more, utility witnesses. Staff alone typically propounds hundreds of data requests in such cases. Clearly the scope of such a

case is far greater than the scope of this case. The Company suggests a rebuttal testimony deadline of December 16, which would mean the Spire rate case hearings will have been over for a full week before rebuttal testimony would be due. While the Company fully appreciates that a week does not afford a great deal of time, it must be kept in mind that Staff and the other parties will have had this case in front of them for more than five months by then. They need not wait until after the Spire hearings are over to start preparing rebuttal testimony. And while there could be some overlap between personnel engaged in some way in the Spire case and this case, there surely won't be total overlap nor would all overlapping personnel be engaged full-time in the Spire hearings.

7. In the end, the Commission must make an equitable and practical decision considering the circumstances before it, while balancing the various parties' interests. Respectfully, the Company suggests that a fair balance of those interests would not be to afford the Company just 13 business days, spread across two national and state holidays, to process, analyze, and respond to rebuttal testimony from six parties, especially where those parties will have had more than five months to have processed the case and file their rebuttal testimony. While in a vacuum five calendar days (in this case, just two more business days) may not seem like much, under the circumstances, just a few days will make a big difference to the Company and should be manageable for the Staff.

8. There are two other matters raised by Staff's Procedural Recommendation that the Company wishes to address. First, Staff seems to suggest that it might file a recommendation at some point in advance of its requested December 21 rebuttal testimony deadline. The Company would of course welcome an earlier recommendation and perhaps the case could be disposed of based on a Staff recommendation, depending on its terms and the positions of the other five non-

Company parties to the case. But regardless of whether Staff files an earlier recommendation, any schedule adopted by the Commission should make clear that if the case is not resolved by the rebuttal testimony deadline, absent agreement by the parties otherwise, all parties, including Staff, must file rebuttal testimony in accordance with 20 CSR 4240-2.130(7)(C) by the rebuttal testimony deadline.

9. Finally, regardless of the rebuttal testimony deadline established by the Commission, the Commission should shorten the time for objections and responses to data requests starting with the rebuttal testimony deadline, as it routinely does in cases where the surrebuttal testimony deadline follows rather closely after the rebuttal testimony deadline. As a practical matter, the Company will be severely hindered in conducting discovery based on rebuttal testimony unless the objection/notice of need for more time to respond deadline is shortened to two business days and the time for responses to data requests is shortened to five calendar days.

WHEREFORE, Ameren Missouri respectfully prays that the Commission set December 16, 2022 as the deadline for rebuttal testimony filed in accordance with 20 CSR 4240-2.130(7)(C), otherwise adopt the other procedural deadlines reflected in Staff's Procedural Recommendation, shorten the deadline in 20 CSR 4240-2.090(2)(D) to two business days, and shorten the deadline in 20 CSR 4240-2.090(2)(C) to five calendar days.

Respectfully submitted,

*(Signature block on following page)*

/s/ James B. Lowery

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**ATTORNEYS FOR UNION ELECTRIC  
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**CERTIFICATE OF SERVICE**

The undersigned certifies that true and correct copies of the foregoing was served on the Staff of the Missouri Public Service Commission and the Office of the Public Counsel via electronic mail (e-mail) on this 9th day of September, 2022.

*/s/ James B. Lowery*  
James B. Lowery