

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

AMEREN MISSOURI'S STATEMENT OF POSITIONS

Union Electric Company d/b/a Ameren Missouri (“Company” or “Ameren Missouri”) hereby submits its Statement of Positions in accordance with the Procedural Schedule set for the above-captioned proceeding. The issues set out below are taken from the *Jointly Proposed List of Issues, Order of Opening Statements, List and Order of Witnesses, and Order of Cross-Examination* submitted by the parties on January 24, 2023.

Issue A. Does the evidence establish that the 150 megawatt ("MW") solar generation facility to be constructed in White County, Illinois (the “Boomtown Solar Project” or "Project") for which Ameren Missouri is seeking a certificate of convenience and necessity ("CCN") necessary or convenient for the public service?

Yes. The Company's evidence establishes that even under normal conditions, it faces a projected shortfall in the energy needed to cover its load and planning reserve margin requirements as soon as 2028, if it fails to add additional renewable generation now and steadily over time.¹ That shortfall would grow under certain other scenarios, including if high carbon prices were imposed on its remaining coal-fired generation, or if loads grow more than currently projected due to factors such as increased electrification – both high carbon prices and higher loads would produce an energy shortfall as soon as 2026.² These shortfalls could be more severe or occur

¹ File No. EA-2022-0245, Direct Testimony of Matt Michels, p. 9, l. 9 to p. 10, l. 2; Surrebuttal Testimony of Matt Michels, p. 19; p. 20, l. 11 to p. 21, l. 6.

² File NO. EA-2022-0245, Surrebuttal Testimony of Matt Michels, p. 23, Figure 4.

sooner if the kind of extreme weather events we are increasingly observing occur again, or if other unexpected events, such as an unexpected and extended forced outage at a major unit or an earlier retirement of, for example, the Company's Sioux Energy Center, were to occur.³ Such risks are not theoretical, especially given projected capacity conditions in the MISO⁴ footprint which, according to NERC,⁵ could fall below acceptable levels as soon as the summer of 2023.⁶ NERC also specifically calls out that these risks are even greater in cases of extreme weather.⁷

It is inappropriate to define "need" in the manner advocated for by the Staff, because Staff's approach to need requires that a resource be "absolutely indispensable" essentially right now, in order for it to be needed. For decades the Commission, as articulated by Missouri courts, has recognized that this is not the standard for granting a CCN. *See Re Tartan Energy Co.*, Case No. GA-94-127, 1994 WL 762882 (Mo.P.S.C.) (Sept. 16, 1994) (Recognizing that Missouri courts have held that "[t]he term 'necessity' does not mean 'essential' or 'absolutely indispensable', but that an additional service would be an improvement justifying its cost.", *citing State ex rel. Intercon Gas Co. v. P.S.C.*, 848 S.W.2d 593, 597 (Mo. App. W.D. 1993)). Not only is such an approach to need inappropriate as a matter of law, but it is risky and irresponsible to take a "just in time" approach to adding resources needed to provide energy under the conditions facing Ameren Missouri and the region.⁸

Nor is it feasible to wait until a projected energy shortfall is upon us to add the renewable energy resources that are needed given the implementation timeline for renewable projects and the fact that the availability of suitable projects is limited. Put simply, if the Company is going to

³ File No. EA-2022-0245, Surrebuttal Testimony of Matt Michels, p. 21, l. 7 to p. 23, l. 5.

⁴ Midcontinent Independent System Operator.

⁵ North American Electric Reliability Council.

⁶ Surrebuttal Testimony of Ajay K. Arora, p. 9, l. 13 to p. 10, l. 11.

⁷ *Id.*, p. 10, l. 11 to p. 11, l. 8.

⁸ File No. EA-2022-0245, Surrebuttal Testimony of Steven M. Wills, p. 5, l. 6 to p. 6, l. 10.

meet its energy needs it has a real need to build the projects that are available to it now, adding additional projects as they become available.⁹

Issue A1. Should the Commission find that the Project satisfies the first *Tartan* Factor of need?

Yes, there is a clear need for this Project, as outlined above. All parties understand that Ameren Missouri's current generation fleet is anchored by its coal facilities. But that fleet is aging, its useful lives are approaching the end, and its environmental impacts create ever increasing pressure to add more and more renewables to Ameren Missouri's portfolio.¹⁰ This transition must be managed in a way that does not risk the Company's reliable provision of electricity to its customers. This CCN project is the first step in making that happen.

Staff's and the Office of Public Counsel's ("OPC") overly narrow and unreasonable position on need, if adopted by the Commission, would deprive Ameren Missouri and its customers from beginning to meet its energy needs using a "no regret" resource.¹¹ It would instead expose Ameren Missouri's customers to unnecessary risks, and it would deprive the Company of the practical ability to implement the resources necessary to cover its expected energy shortfall – even under normal conditions let alone if other circumstances arise to exacerbate that shortfall. This narrow interpretation¹² focuses on timing any new resource with the exact moment of a near-term capacity deficit is irresponsible in light of the risk to the reliability of the grid.

The main driver of the need for the Project and other renewable resources is to meet customer *energy* needs. Indeed, the planned retirements of three of the four Ameren Missouri coal

⁹ File No. EA-2022-0245, Surrebuttal Testimony of Ajay Arora, at p. 22, l.7 to p. 25, l. 13

¹⁰ File No. EA-2022-0245, Surrebuttal Testimony of Steven Wills, at p. 3, l. 4- 23.

¹¹ File No. EA-2022-0245, Surrebuttal Testimony of Ajay Arora , at p. 2, l. 18 – p. 4, l. 4.

¹² Sierra Club witness Sarah Shenstone-Harris describes Staff's interpretation of need as defined only by firm capacity as "narrow." See File No. EA-2022-0245, Surrebuttal Testimony of Sarah Shenstone-Harris, at p. 7, l. 12 – p. 8, l. 23. Renew Missouri witness James Owen describes Staff as applying "a draconian standard" of need. See Surrebuttal Testimony of James Owen, at p. 10, ll. 10 – 13.

facilities by 2030 are triggering a dramatic swing in the Company's energy position over the next few years from its currently abundantly long position to a shortage of energy forecasted to start in 2028 assuming normal generation and load conditions, or earlier under other plausible scenarios.¹³ However, if the Company is able to execute on its Preferred Resource Plan, which includes the Project, the Company should have sufficient energy every year long-term and the Company would be expected to be a net seller of electric energy at levels roughly equivalent to what it seen historically.¹⁴

Staff's and OPC's narrow view irresponsibly ignore the following risk mitigation benefits of adding renewable energy resources steadily over time as set forth in the Company Preferred Resource Plan:

- Waiting to deploy renewable resources could require the rapid deployment of less beneficial resources, particularly if viable projects are limited, transmission constraints cause delays or higher costs, or financing rates are higher due to delaying transition from fossil fuels.
- Renewable projects are expected to benefit from lucrative tax credits made available by federal law. The Inflation Reduction Act of 2022 expanded and extended tax credits for renewable projects, including making production tax credits ("PTCs") available to solar projects. Beginning to add qualifying project now allows Ameren Missouri to maximize this benefit for its customers.
- Adding renewable resources provides a hedge against various market risks, including risks associated with power prices, carbon prices and fuel prices.¹⁵

¹³ File NO. EA-2022-0245, Surrebuttal Testimony of Matt Michels, at p. 11, l. 1 – p. 12, l. 2; p. 18, l. 4 – p. 19, l. 11; p. 23, Figure 4.

¹⁴ Id., at p. 25, ll. 1 – 11.

¹⁵ File NO. EA-2022-0245, Surrebuttal Testimony of Matt Michels, at p. 39, l. 5 – p. 40, l. 4.

It also ignores other risks, highlighted by both NERC and MISO even since this case was filed last July. *See* Company witnesses Arora's and Michels' Surrebuttal Testimonies and their discussion of NERC's 2022 Long-Term Planning Assessment, referenced earlier, including NERC's designation of MISO has a "high risk" area.¹⁶

Issue A2. Should the Commission find that the Project satisfies the second *Tartan* Factor of economic feasibility?

Yes. No party has claimed that the second *Tartan* factor has not been satisfied. From the broader context, as shown through the alternative analyses performed that resulted in Ameren Missouri's notice of Change in Preferred Resource Plan, the Company's Preferred Resource Plan produces the lowest net present value of revenue requirement among the alternative resource plans considered across a range of scenarios.¹⁷ Specifically, the addition of significant renewable generation, in combination with adding combined cycle natural gas generation after the Sioux Energy Center retires and battery storage to pair with the renewable generation, reflects the most economical portfolio of resource additions to ensure a reliable and resilient energy supply for Ameren Missouri customers. Renewable energy resources are also the cheapest among the candidate replacement energy resources that are available.¹⁸

Issue A3. Should the Commission find that the Project satisfies the third *Tartan* Factor of ability to finance?

Yes. There is no dispute among the parties on this issue. Both Staff witness Dr. Seoung Joun Won and OPC witness Dr. Geoff Marke conclude that this factor is satisfied.¹⁹

¹⁶ File NO. EA-2022-0245, Ajay Arora Surrebuttal Testimony, p. 9, l. to p. 11, l. 8.

¹⁷ File NO. EA-2022-0245, Schedule MM-D2, p. 27, to Matt Michel's Direct Testimony.

¹⁸ File NO. EA-2022-0245, Direct Testimony of Ajay K. Arora, at p. 7, l. 18 – p. 9, l. 11.

¹⁹ File NO. EA-2022-0245, Rebuttal Testimony of Seoung Joun Won, PhD, at p. 3, l. 14 – p. 4, l. 7 & Rebuttal Testimony of Geoff Marke PhD, at p. 3, ll. 15 – 17.

Issue A4. Should the Commission find that the Project satisfies the fourth *Tartan* Factor of qualified to construct?

Yes. There is no dispute among the parties on this issue. The Project is being constructed under a BTA, where the solar developer, Invenergy, builds the Project but Ameren Missouri (as the ultimate owner) has contractual rights before and during construction to ensure the Project is built to Ameren Missouri's specifications and meet customers' needs.²⁰ Ameren Missouri submits that Invenergy is well qualified to construct the Project solar facility and Ameren Missouri is qualified to operate and maintain the facility. Staff witness Jordan Hull concurs, stating: "Staff concludes Boomtown Solar LLC is qualified to construct and install this project, and Ameren Missouri is qualified to own, maintain, and otherwise control and manage the project."²¹ OPC witness Dr. Marke also finds that the Company is qualified to build, own, operation and maintain the Project.²²

Issue A5. Should the Commission find that the Project is in the public interest and satisfies the fifth *Tartan* Factor?

Yes. The Project is the first but an important step toward addressing the energy needs of the Company's customers and is in the public interest. Having established that the first four *Tartan* factors have been met, it follows that the first factor, public interest, is also met. *See Tartan, supra*, p. 10 ("[g]enerally speaking, positive findings with respect to the four other standards will in most instances support a finding that . . . [the CCN] will promote the public interest.").

Respecting renewable generation specifically, Company witness Steven Wills describes the Commission's history (dating back to almost a decade ago) of supporting development of

²⁰ File No. EA-2022-0245, Direct Testimony of Scott Wibbenmeyer, at p. 5, ll. 5 – 13.

²¹ File NO. EA-2022-0245, Rebuttal Testimony of Jordan Hull, at p. 3, ll. 1 – 3.

²² File NO. EA-2022-0245, Rebuttal Testimony of Geoff Marke, PhD, at p. 3, ll. 13 – 14.

renewable energy resources as being in the public interest, and explains that assessment of the public interest should be guided by the three pillars of reliability, affordability, and sustainability.²³ The proper balancing of those pillars is through Integrated Resource Planning, which resulted in the June 2022 Change in Preferred Resource Plan and supports the need to add renewable generation generally, and the Project specifically.²⁴ Furthermore, Company witness Robert Dixon explains the economic development benefits of attracting new large customers to locate in Missouri or expansion of existing large customers, and how programs like the Renewable Solutions Program meeting large customers' demand for clean energy options improves the Company's competitiveness when competing for new large customers or expansion of existing ones with the rest of the world in furtherance of the public interest.²⁵ Witnesses on behalf of two of the large customers who have signed on to participate in the Program (if approved), Mark Schuerman for Bayer and Andrew Teague for Walmart, explain why the Program is necessary to meet their sustainability goals and important for the Company to stay competitive with its peers.²⁶

Issue B. If the Commission grants the CCN for the Boomtown Solar Project, what conditions, if any, should the Commission impose on the CCN?

The following four conditions are reasonable to impose on the CCN: 1) Ameren Missouri shall file with the Commission as-built drawings for the Project within 100 days after the "Final Completion Deadline," as defined in the BTA, provided, that if Invenergy is excused under the terms of the BTA from providing certain as-built drawings by that deadline Ameren Missouri will file such as-built drawings within 10 days after receipt thereof from Invenergy. Ameren Missouri

²³ File NO. EA-2022-0245, Surrebuttal Testimony of Steven M. Wills, at p. 8, l. 1 – p. 12, l. 18 & p. 25, ll. 4 – 7.

²⁴ *Id.*, at p. 27, l. 1 – p. 28, l. 5.

²⁵ File NO. EA-2022-0245, Surrebuttal Testimony of Robert B. Dixon, at p. 20, l. 9 – p. 23, l. 15.

²⁶ File NO. EA-2022-0245, Surrebuttal Testimony of Mark Schuerman, at p. 2, l. 5 – p. 3, l. 2 & Surrebuttal Testimony of Andrew D. Teague, at p. 3, l. 6 – p. 4, l. 16.

will notify the Staff within 10-days after the Final Completion Deadline if there are any as-built drawings for which Invenergy was excused from delivering by that deadline;²⁷ 2) the in-service criteria referenced by Staff as confidential attachment SEL-3 and confidential attachment SEL-4, should be used in a future general rate case to determine whether the Project is in-service; 3) Ameren Missouri shall file with the Commission the final version of the plans for restoration of safe and adequate service no later than 60 days after the site is commercially operational; and 4) Ameren Missouri shall file with the Commission quarterly progress reports on the plans and specifications for the Project, and the first report shall be due on the first date of the first calendar quarter beginning after the CCN is issued.²⁸

However, as explained in Company witness Arora's Surrebuttal Testimony, the other conditions on the CCN recommended by Staff witness Shawn Lange regarding interconnection costs analyses and the IEEE standard P2800 are not necessary or reasonable.²⁹ With respect to the IEEE standard, witness Arora suggests an alternative condition that is reasonable, as recently agreed to by the Company and the Staff in File No. EA-2022-0244.

Issue C. Is this an appropriate proceeding for the Commission to review Ameren Missouri's Renewable Solutions program?

Yes. No Missouri statute, Commission rule, or other authority requires a separate proceeding for review of the Program distinct from seeking a CCN. The Boomtown Project is proposed to be the resource for Phase 1 of the Program. Company witness Lindsey Forsberg provides the results of modeling that demonstrates that the Program, when coupled with a resource

²⁷ This condition matches the condition on the same topic just submitted in the *Revised Stipulation and Agreement* in File No. EA-2022-0244 but differs from the language reflected in Ajay Arora's Surrebuttal Testimony (p. 34, l. 5-12). That language contained the same ambiguity identified by the regulatory law judge in File No. EA-2022-0244, which is why this alternative language is set forth herein.

²⁸ File NO. EA-2022-0245, Surrebuttal Testimony of Ajay K. Arora, at p. 34, p. 2 – p. 35, l. 3.

²⁹ *Id.* at p. 32, l. 18 – p. 33, l. 14.

that is already needed as discussed earlier, unquestionably makes the Project even more cost-effective. To divorce review of the Project CCN and the Program would be inefficient, duplicative, and could result in the Commission not seeing the full relationship between the Project and Program.

OPC witness Dr. Geoff Marke, the only witness to make this assertion, merely makes a blanket statement that a CCN docket is not an appropriate forum for approval of a new tariff customer program. But that statement is nothing more than an assertion. Dr. Marke offers absolutely no reason why there needs to be two separate cases for these inherently inter-related topics.

Issue C1. If so, should the Commission approve the Renewable Solutions Program proposed by Ameren Missouri in accordance with its authority to approve utility programs and tariffs?

Yes. Customer demand for the Program exceeds the capacity of Phase 1 (the 150 MW nameplate capacity for the proposed Boomtown Project), and 10 customers have executed binding 15-year commitments for Phase 1.³⁰ Taking lessons learned from the Renewable Choice Program's failure to attract enrollment, the Renewable Solutions Program was developed with the goals of being as subscriber-friendly as possible while producing benefits for non-subscribing customers to enhance the affordability of resources needed to execute the Company's generation transition — a win-win situation.³¹ As Company witness Lindsey Forsberg's Surrebuttal Testimony explains, and her supporting schedules show, even taking into account expected changes in the Project's estimated cost, the Program is expected to produce between \$11.7 and \$27.8 million of present

³⁰ File NO. EA-2022-0245, Direct Testimony of Lindsey J. Forsberg, at p. 12, ll. 2 – 12 & Direct Testimony of Steven M. Wills, at p. 20, ll. 4 – 8.

³¹ File NO. EA-2022-0245, Direct Testimony of Steven M. Wills, at p. 3, l. 5 – p. 6, l. 4 & p. 19, ll. 7 – 19.

value incremental net revenue requirement benefit to all Ameren Missouri customers under modeled scenarios.³² Through the Program, the Company is able to monetize the Renewable Energy Credits ("RECs") through subscriber net revenues and create affordability benefits for all customers, while also serving its own load (subscribers' load and retail load of the Company) with renewable power that meet local customers' demand for renewables and further helps align with investor preferences that may impact cost and availability of capital.³³

Issue D. If the Commission approves the Renewable Solutions Program proposed by Ameren Missouri, what, if any, conditions should the Commission impose on such approval?

None. The Company requests the Boomtown Project CCN be approved pursuant to the Company's need to start adding renewable resources now *irrespective* of the approval of the Program. There is no plausible scenario where customer revenue requirements arising from adding the needed Project with the Program can be higher than they would if the Program had not been approved, so the Program provides unequivocal benefits to non-subscribers. In addition to contributing to the cost of the resource (the Project), the Program also reduces economic risks of the resource – a resource needed irrespective of the Program's existence - that otherwise would be borne by non-subscribers. Thus, Staff's and OPC's proposal for a condition on any Program approval to require a 50/50 risk-sharing arrangement between customers and Company shareholders is inappropriate and should be rejected.³⁴ If such a condition were imposed, it would kill the program and the contribution to greater affordability of the needed resource would be lost.³⁵

³² File NO. EA-2022-0245, Surrebuttal Testimony of Lindsey J. Forsberg, at p. 4, l. 13 – p. 5, l. 9; Tables 1 & 2 (Table 2, *RSP Benefit* row); Highly Confidential Schedules LJF-S1 & LJF-S2.

³³ File NO. EA-2022-0245, Surrebuttal Testimony of Steven M. Wills, at p. 43, l. 6 – p. 45, l. 8.

³⁴ *Id.*, at p. 37, 3 – p. 41, l. 21.

³⁵ *Id.*, at p. 41, l. 18 to 21.

The three other conditions proposed by Staff witness Cedric Cunigan related to the future transition of the Project after the end of the 15-year Phase 1 of the Program are also unnecessary and inappropriate.³⁶ The resource in question is needed – now. If such conditions were imposed, the Company will simply not go forward with the Program at all.

/s/ James B. Lowery

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**ATTORNEYS FOR UNION ELECTRIC
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Dated: January 23, 2023

³⁶ Id., at p. 42, l. 1 – p. 43, l. 5.

CERTIFICATE OF SERVICE

The undersigned certifies that true and correct copies of the foregoing was served on counsel for all parties of record in this docket via electronic mail (e-mail) on this 27th day of January, 2023.

/s/James B. Lowery

James B. Lowery