BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Establishment of a Working Case for the Review and Consideration of Amending the Commission's Rule on Electric Utility Renewable Energy Standard Requirements.	))))	File No. EW-2020-0377

AMEREN MISSOURI'S RESPONSE TO ORDER OPENING A WORKING CASE TO CONSIDER AMENDING THE RULE REGARDING RENEWABLE ENERGY STANDARD REQUIREMENTS

COMES NOW Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri" or "Company"), and in response to the above-referenced Order, states as follows:

1. The Commission opened this docket in response to a Staff motion to establish a working docket to examine the Commission's Renewable Energy Standard ("RES") rule. Staff indicated that a working docket should be opened because of "several issues" with the current rule which Staff stated, "may or may not become problematic." Staff's motion raised four such issues and proposed, in general terms, four possible solutions to them. Staff's motion also suggested that the docket should consider "any additional issues with the current Rule, along with potential solutions, identified by the commenters."

2. Set out below are (a) the Company's comments on the Staff's four issues and proposed solutions, and (b) a discussion of some additional issues that, based on the Company's experience with application of the RES rule over the past roughly a decade, ought to also be addressed if the RES rule is going to be amended.

I. STAFF'S ISSUES

ISSUE A

3. Staff's Issue A suggests that there is a need to clarify whether revenues from the sale of renewable energy credits ("RECs") should be credited in a utility's fuel adjustment clause ("FAC") or in the utility's renewable energy standard rate adjustment mechanism ("RESRAM").

The Company agrees that making the RES rule clear that such revenues would flow-through the RESRAM makes sense. However, Staff's proposed solution goes beyond making that simple clarification and appears calculated to support a particular point of view about the sale of RECs that may not, at a given point in time, be needed for RES compliance.

4. While the Company cannot know with certainty why Staff goes beyond solving the issue it raised, it appears likely that Staff is seeking a rule amendment that might help it advance its point of view about the sale of RECS as expressed in its attempt to obtain a prudence disallowance in an Evergy Metro's (f/k/a Kansas City Power & Light Company) RESRAM prudence review case. *See* File No. EO-2019-0068, decided in Evergy's favor by the Commission as reflected in a *Report and Order* dated November 6, 2019. In that case, Staff claimed Evergy was imprudent for failing to sell approximately 723,000 RECs not then needed for RES compliance and requested that the Commission enter an approximately $350,000 prudence disallowance against Evergy based on that claimed imprudence. In rejecting the Staff's claim, the Commission sided with Evergy's viewpoint, including Evergy's reliance on its customers' wishes not to lose the environmental attributes of the renewable energy used to serve them, the limited opportunities to sell RECs, and the "*de minimis"* impact on customer rates.

5. While there may be circumstances when RECs not then needed for RES compliance should be sold, there obviously are circumstances where they should not be sold, and the answer to that question does not necessarily depend on the "value of selling RECs," as Staff posits. Nor does answering the question necessarily lend itself to a "cost-benefit analysis" or "proof of solicited sale." Staff's Motion, p. 2. The Commission should not – and need not – prescribe what a utility must do, or not do, every time it may have some RECs which, in theory, it could sell since they may not be needed at a given time for RES compliance (or may no longer be eligible to use

for RES compliance due to the passage of time.)[1] Consequently, while the Company does not object to adding "an annual reporting requirement to provide the number of RECs" it holds, including the date they were generated (which will allow Staff to identify when they expire or whether they have expired), the rule should not prescribe anything further regarding the question of whether to sell, or when to sell, or how many to sell, or regarding how related decisions are made or documented. The RES rule mandates periodic prudence reviews and armed with the just-described information and other information provided in periodic RES reporting, any party, Staff included, can identify the number of RECs used for RES compliance, the total number of RECs the utility had, and when various quantities of RECs expired. If there were RECs not used for compliance and not sold that a party believes should have been sold, the party can so claim in the prudence review. Prudence reviews allow for discovery and hearing, meaning such a party will obtain all of the process it is due if such a claim is made.

ISSUE B

6. Subject to an evaluation of the language Staff would propose to reflect its specific solution to this issue, the Company generally has no objection to the solution posed for Issue B.

ISSUE C

7. The Company generally agrees with the issue Staff has raised and supports Staff's proposed solution.

ISSUE D

8. Staff identified potential confusion regarding whether a given renewable energy resource is directly related to RES compliance. The Company agrees that it would be beneficial to designate which resources (or portions of them) are directly related to RES compliance. This is

[1] RECs may be used for RES compliance if used within three years of when the electricity associated with the REC was generated. 20 CSR 4240-20.100(1)(M)

accomplished by Staff's suggestion in item "(i)" of its proposed solution for this issue. However, it is not clear what item two has to do with the RES and the Company therefore questions its appropriateness in a RES rule. The Company also does not fully understand the intent behind the last sentence of Staff's proposed solution for this issue but looks forward to discussing it as the workshop proceeds.

II. ADDITIONAL ISSUES

9. As referenced earlier, Staff's motion also encouraged workshop participants to raise additional issues with the current Rule, along with potential solutions. The Company appreciates the opportunity to do so.

10. The Company's additional issues with the proposed rule fall into two categories. The first category pertains to the operation of a RESRAM. The second relates to periodic reporting under the RES rule.

11. With respect to the operation of the RESRAM, when the Company proposed its RESRAM it asked for and ultimately received several variances from the terms of the current RES rule pertaining to the operation of the RESRAM. The variances were agreed upon by the signatories to the Commission-approved stipulation that resolved the case and granted by the Commission. The reasons for the variances were outlined in detail in the Company's testimony filed in that case and explained in paragraph 16 of the Third Stipulation and Agreement approved by the Commission. *Order Approving Third Stipulation and Agreement*, File No. EA-2018-0202, Ordering Paragraph 4 ("Ameren Missouri is granted the limited variances from Commission rules listed and described in paragraph 16 of the Third Stipulation and Agreement"). As noted, paragraph 16 of the Third Stipulation and Agreement provides a good summary of why the variances were appropriate, and similarly provides a good summary as to why appropriate rule

amendments to obviate the need to obtain such variances is appropriate. Paragraph 16 is reproduced in its entirety below:

> Variances: The Signatories agree the Commission should grant Ameren Missouri the limited variances listed as follows:
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> A. **4 CSR 240-20.100(6)13:** "An electric utility that has implemented a RESRAM shall file revised RESRAM rate schedules to reset the RESRAM charge to zero (0) when new base rates and charges become effective following a commission report and order establishing customer rates in a general rate proceeding that incorporates RES compliance costs or benefits previously reflected in a RESRAM in the utility's base rates. If an over- or under-recovery of RESRAM revenues or over- or under-pass-through of RESRAM benefits exists after the RESRAM charge has been reset to zero (0), that amount of over- or under-recovery, or over- or under-pass-though, shall be tracked in an account and considered in the next RESRAM filing of the electric utility."
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> ***Variance:*** *The Signatories recommend the Commission grant a variance to allow the RESRAM rate to be adjusted upon conclusion of a rate case to remove the RES Revenue Requirement that is being moved to base rates from the RESRAM rate, but the RESRAM rate continues to reflect recovery/return of any existing over/under (1) recovery balance, (2) True-up, or (3) Ordered Adjustment.*
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> B. **4 CSR 240-20.100(6)(A)10:** "The RESRAM charge will be calculated as a percentage of the customer's energy charge for the applicable billing period."
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> ***Variance:*** *The Signatories recommend the Commission grant a variance to allow the RESRAM rate to be billed customers as a flat rate per kWh of energy consumed.*
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> C. **CSR 240-20.100(6)(C):** "RESRAM for equal to or greater than two percent (2%) actual increase in utility revenue requirements. The commission shall have no less than thirty days . . . to hold a hearing and issue a report and order approving the electric utility's rate schedules . . .."
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> ***Variance:*** *The Signatories recommend the Commission grant a variance to allow a RESRAM rate change of 2% or more to take effect 120 days after its filing if the Commission has not yet resolved a dispute about the rate change on an interim, subject to refund basis, in the same manner provided for by the Commission's fuel adjustment clause ("FAC") rules. See 4 CSR 240-20.090(4) (Which provides that if the Commission has not issued an order approving an FAC rate adjustment, the adjustment takes effect as an interim rate, as follows: "the commission shall either issue an interim rate*

adjustment order approving the tariff schedules and the FAC rate adjustments within sixty (60) days of the electric utility's filing or, if no such order is issued, the tariff schedules and the FAC rate adjustments shall take effect sixty (60) days after the tariff schedules were filed."). Without such a variance, it will be difficult if not impossible to calculate a RESRAM rate that accurately recovers the costs (or returns the benefits) that are appropriate under the RESRAM because such a calculation must be predicated on knowing (a) when the rate adjustment will occur, and (b) how long that RESRAM rate will be in effect. As a result, it is appropriate to allow the RESRAM rate to go into effect within 120 days in all circumstances in order to ensure the RESRAM rate in each RESRAM rate filing can be developed accurately. If, after resolution of any dispute about the RESRAM rate the Commission determines that the rate was incorrect, an adjustment can be made via the "Ordered Adjustment" factor in the RESRAM tariff sheets, with interest.

D. 4 CSR 240-20.100(6): "In all RESRAM applications, the increase in utility revenue requirements shall be calculated as the amount of additional RES compliance costs incurred since the electric utility's last RESRAM application or general rate proceeding, net of any reduction in RES compliance costs . . . and any new RES compliance benefits."

Variance: *The Signatories recommend the Commission grant a variance to allow the market value at generation node/meter of the energy generated and associated capacity sold from a renewable resource (a RES compliance benefit) to be included in the determination of base and actual net energy costs in the Company's fuel adjustment clause instead of in the RESRAM.*

12. With respect to reporting requirements in the current RES rule, there are certain provisions of the current rule that require the Company to provide information about RECs purchased from a third-party (i.e., not Company customers) or from Company customers. As outlined in the Request for Waiver filed on June 23, 2020 in File No. EE-2020-0411, the Company does not possess (and in some cases has no means to acquire) all the information that 20 CSR 4240-20.100(8)I and (8)(J) require. Consequently, Ameren Missouri has found it necessary to seek and obtain variances from these requirements in prior reporting years, including for the calendar year 2019 RES compliance report. The Company recommends modifying the current rule in a

manner that will eliminate the need to obtain such variances. A copy of the Company's most recent variance request is attached to this Response as Exhibit A.

WHEREFORE, the Company submits its responses to the above-referenced Order and looks forward to participating in this workshop docket.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was served on all parties of record via electronic mail (e-mail) on this 29th day of June, 2020.

/s/James B. Lowery
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