

**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-2018-0202
Necessity Authorizing it to Construct a Wind Generation)
Facility.)

OPC’S POSITION STATEMENT

COMES NOW, the Office of the Public Counsel (OPC), by and through undersigned counsel, and for *OPC’s Position Statement*, provides as follows:

Issue: Does Ameren Missouri’s election under Section 393.1400.5, RSMo, on September 1, 2018, which under Section 393.1400.2 requires that 85% of depreciation expense and return on the High Prairie project be deferred to a regulatory asset, preclude the inclusion of 15% of said depreciation and return in Ameren Missouri’s RESRAM?

OPC Position: Yes. The legal question before the Commission is whether a consumer protection, i.e., 85% recovery instead of 100% recovery of the regulatory lag, will be upheld or denied. On September 1, 2018, Ameren Missouri notified the Commission “that Ameren Missouri elects to make the deferrals set forth in Section 393.1400 (Plant in Service Accounting or PISA) as of September 1, 2018.”¹ As a result, the Commission is empowered and *required* to positively answer this legal question and order 85% recovery of depreciation expense and return for the project until rates are reset following Ameren Missouri’s next general rate case.

¹ *Notice of PISA Election*, Case No. EO-2019-0044, September 1, 2018, EFIS No. 4.

The clear statutory directive for “[q]ualifying electric plant” is to defer 85% of the depreciation expense and return for “all” rate-base additions² during the period of time in between (i) when qualifying electric plant goes into service and (ii) when new rates go into effect. This operative deferral statute was enacted “notwithstanding any other provision of [Chapter 393] to the contrary,” and thus explicitly excluded the recovery mechanism for Missouri’s renewable energy standard under Section 393.1030, RSMo.³

Because the statute only specifically addresses depreciation expense and return, the OPC argues that a RESRAM can otherwise be ordered to account for other costs (e.g., taxes, insurance, etc.) and for other benefits (production tax credit benefits, off-system sales revenues, etc.). OPC clarifies its position that, once new rates are effective, Ameren Missouri may recover all of its remaining prudently incurred costs through its base rates.

The OPC is only asking this Commission to uphold the customer protection limiting depreciation expense and return in between (i) when qualifying electric plant goes into service and (ii) when new rates go into effect. As previously stated, the OPC asks for an order authorizing 85% deferral to respect clear statutory directions.

WHEREFORE, the OPC requests the Commission to consider *OPC’s Position Statement* in its determination of this issue, approve the Third Stipulation and Agreement filed October 12, 2018, and order any other relief the Commission finds would be just and reasonable.

² Section 393.1400.1(3) RSMo includes a number of exceptions to this general requirement for all rate-base additions, and limits the exceptions to “rate-base additions for new coal-fired generating units, new nuclear generating units, new natural gas units, or rate-base additions that increase revenues by allowing service to new customer premises.” Renewable wind generation is not included as an exception.

³ See Section 393.1400.2(1) RSMo. “Notwithstanding” is defined to mean “despite” or “in spite of”, *Black’s Law Dictionary*, 7th Ed., p.1091.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was sent by electronic mail or by U.S. Mail, postage prepaid, on October 23, 2018 to all counsel of record.

/s/ Ryan D. Smith