

Exhibit No.:	
Issues:	Conservation conditions; Tax revenue; Benefits of wind generation
Witness:	James Owen
Sponsoring Party:	Renew Missouri Advocates
Type of Exhibit:	Surrebuttal Testimony
Case Nos.:	EA-2019-0021
Date Testimony Prepared:	January 22, 2019

MISSOURI PUBLIC SERVICE COMMISSION

EA-2019-0021

SURREBUTTAL TESTIMONY

OF

JAMES OWEN

ON BEHALF OF

RENEW MISSOURI ADVOCATES

January 22, 2019

**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
Necessity Authorizing it to Construct a Wind Generation
Facility.

File No. EA-2019-0021

AFFIDAVIT OF JAMES OWEN

STATE OF MISSOURI)
)
COUNTY OF BOONE)

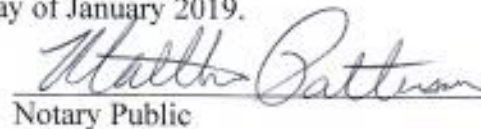
ss

COMES NOW James Owen, and on his oath states that he is of sound mind and lawful age; that he prepared the attached surrebuttal testimony; and that the same is true and correct to the best of his knowledge and belief.

Further the Affiant sayeth not.


James Owen

Subscribed and sworn before me this 22nd day of January 2019.


Notary Public

My commission expires: 1-19-20



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1 **I. Introduction**

2 **Q: Please state your name, title, and business address.**

3 A: James Owen, Executive Director, Renew Missouri Advocates d/b/a Renew Missouri
4 (“Renew Missouri”), 409 Vandiver Dr. Building 5, Suite 205, Columbia, MO 65202.

5 **Q: Please describe your education and background.**

6 A: I obtained a law degree from the University of Kansas as well as a Bachelor of Arts in
7 Business and Political Science from Drury University in Springfield.

8 **Q: Please summarize your professional experience in the field of utility regulation.**

9 A: Before becoming Executive Director of Renew Missouri, I served as Missouri’s Public
10 Counsel, a position charged with representing the public in all matters involving utility
11 companies regulated by the State. While I was Public Counsel, I was involved in several
12 rate cases, CCN applications, mergers, and complaints as well as other filings. As Public
13 Counsel, I was also involved in answering legislators’ inquiries on legislation regarding
14 legislation impacting the regulation of public utilities. In my role as Executive Director at
15 Renew Missouri, I continue to provide information and testimony on pieces of proposed
16 legislation that may impact how Missouri approaches energy efficiency and renewable
17 energy.

18 **Q: Have you been a member of, or participant in, any workgroups, committees, or**
19 **other groups that have addressed electric utility regulation and policy issues?**

20 A: In May 2016 I attended the National Association of Regulatory Utility Commissioners
21 (“NARUC”) Utility Rate School. In the Fall of 2016, I attended Financial Research
22 Institute’s 2016 Public Utility Symposium on safety, affordability, and reliability. While I
23 was Public Counsel, I was also a member of the National Association of State Utility

1 Consumer Advocates (“NASUCA”) and, in November of 2017, the Consumer Council of
2 Missouri named me the 2017 Consumer Advocate of the Year.

3 **Q: Have you testified previously, participated in cases, or offered testimony before the**
4 **Missouri Public Service Commission (“Commission”)?**

5 A: In my prior role as Acting Public Counsel I participated in a number of PSC cases as an
6 attorney and director of the office. During that time period I also offered testimony in
7 rulemaking hearings before the Commission. Since becoming Executive Director of
8 Renew Missouri I contributed to Renew Missouri’s filed testimony in a number of matters.
9 Attached as **Schedule JO-1** is a list of my case participation.

10 **II. Purpose and summary of testimony**

11 **Q: What is the purpose of your testimony?**

12 A: First, to respond to the testimony filed by Missouri Department of Conservation’s
13 (“MDC”) witnesses Dr. Janet Haslerig and Jennifer Campbell. MDC asks the Commission
14 to attach conditions to the requested Certificate of Convenience and Necessity (“CCN”).
15 Below, I discuss why these conditions are unnecessary and should be rejected. Second, I
16 respond to the testimony filed by representatives of Tarkio R-1 School District, Atchison
17 County, and DeKalb County. The representatives of these parties ask the Commission to
18 reject the application because they are dissatisfied with Missouri property tax laws which
19 will require that the wind project to be assessed by the State Tax Commission rather than
20 the counties.¹ These calls to reject the application entirely because local taxing authorities
21 do not get as much revenue as they expected ignore the myriad of reasons why wind
22 projects are beneficial. Assessing all utility-owned wind generation at a local level would

¹ See Section 153.034, RSMo.

1 certainly benefit counties where the turbines are located, but that change would have to
2 come from the General Assembly.

3 **Q: What is Renew Missouri's interest in this application?**

4 A: Renew Missouri advocates for energy efficiency and renewable energy policy. As a state-
5 wide advocate, Renew Missouri has an interest in Ameren Missouri increasing the wind
6 energy used to satisfy Missouri's Renewable Energy Standards ("RES") and provide its
7 customers cost-effective, renewable energy.

8 **Q: What is your recommendation to the Commission in this case?**

9 A: The Commission should grant Ameren Missouri's requested Certificate of Convenience
10 and Necessity ("CCN") and authority to merge under Sections 393.170.1 and 393.190.1
11 RSMo. In recent years, Renew Missouri has focused on Ameren Missouri's lack of wind
12 capacity and the benefits its customers were missing out on. However, the recently
13 approved proposal to add 400 MW of wind energy, its recently approved "green tariff"
14 program, and this current application for an additional 157 MW of wind in the northwest
15 part of Missouri (hereinafter referred to as "the Project") demonstrate the Company is
16 making progress towards adding renewable generation in order to provide its customers
17 with cost-effective, renewable energy. Ameren Missouri's requested CCN in this case is a
18 necessary step in that effort and should be granted.

19 **III. Response to MDC's Witnesses**

20 **Q: Please summarize the testimony offered by MDC in this case.**

21 A: MDC's witnesses Dr. Janet Haslerig and Jennifer Campbell, offer testimony to support
22 their position that this Commission should order certain conditions related to wildlife and
23 conservation area usage on any CCN issued in this case. Dr. Haslerig discusses the

1 potential impact the project may have on eagles and other birds.² Ms. Campbell explains
2 her belief that the Commission should require Ameren Missouri to conduct a traffic count
3 survey, a “viewshed” study, and to add a condition that will prevent the Company from
4 constructing or operating any turbines within three miles of a conservation area.³

5 **Q: How do you respond?**

6 A: These conditions are overbroad and unnecessary. In response to Dr. Haslerig, her own
7 testimony asking for conditions admits “there are no known eagle active or inactive eagle
8 nests within the Project boundary” before discussing that these birds use the project area
9 and still require protection.⁴ She acknowledges that Ameren Missouri plans to develop an
10 Eagle Conservation Plan in consultation with the United States Fish and Wildlife Service
11 (“USFWS”) and that the project managers have a “Bird and Bat Conservation Strategy.”⁶
12 However, these efforts are not enough for Dr. Haslerig, who cites the National Audubon
13 Society’s estimates on bird mortality caused by wind turbines and expresses her
14 unsupported concern about the “potentially cumulative effects from industrial-scale wind
15 projects[.]”⁷ Dr. Haslerig’s concerns are misplaced; the reality is that wind developments
16 pose much less risk to wildlife than other factors. As wind projects are currently responsible
17 for less than 1% of the number of birds killed annually by domestic cats - who kill 2.4
18 billion birds annually - it can reasonably be surmised that any take associated with wind
19 will have a minimal impact on bird populations.⁸ According to the USFWS estimates for
20 Human-caused Threats to Birds, MDC should be more concerned with developers building

² Haslerig Rebuttal, p. 1.

³ Campbell Rebuttal, p. 11.

⁴ Haslerig Rebuttal, pp. 6-7.

⁵ Haslerig Rebuttal, p. 9.

⁶ Haslerig Rebuttal, p. 7.

⁷ Haslerig Rebuttal, pp. 7-9.

⁸ U.S. Fish & Wildlife Service, 2018. Threats to birds: Migratory bird mortality - questions and answers. Retrieved from: <https://www.fws.gov/birds/bird-enthusiasts/threats-to-birds.php>

office buildings than Ameren Missouri purchasing wind turbines to comply with Missouri’s RES requirements and provide its customers with low-cost, renewable energy (see chart below).⁹

Top Common Human-caused Threats to Birds (U.S. only. Ordered by Median Estimate of Bird Mortality Annually. As of 2017.)			
Hazard/Type	Min Range	Max Range	Median/Avg. Estimated
Habitat Loss/Conversion	N/A	N/A	N/A
Collision - Building Glass Loss et al. 2014a	365,000,000	988,000,000	599,000,000
Collisions - Communication towers Longcore et al. 2012			6,600,000
Collisions - Electrical lines Loss et al. 2014c	8,000,000	57,300,000	25,500,000
Collision - Vehicles Loss et al. 2014b	89,000,000	340,000,000	214,500,000
Collisions - Land-based Wind Turbines Loss et al. 2013b	140,438	327,586	234,012

Furthermore, as I understand, the Endangered Species Act (“ESA”) can require the Company to file a Habitat Conservation Plan (“HCP”). In developing an HCP, this may include acquiring an Incidental Take Permit (“ITP”) for endangered species within the impacted areas. The HCP will also develop reasonable alternatives to avoiding “incidental take,” which emphasizes impact mitigation and offset for the affected area. In the natural course of the HCP process, MDC’s concerns will be addressed. The USFWS has a five point policy regarding developing an HCP: (1) Development of biological goals and objectives for each species protected by ESA; (2) creation of adaptive management plan

⁹ *Id.*

1 for monitoring and addressing species impacts; (3) creation of a plan for monitoring the
2 company's compliance to the HCP and its effects; (4) defining duration of permitting for
3 ITPs; (5) allowing public participation in creation of HCP.¹⁰

4 The fact is that Ameren Missouri will comply with any USFWS requirements that
5 may be issued due to the presence of endangered species within the project area.
6 Additionally, Ameren Missouri has committed to provide reasonable advanced notice to
7 the MDC of all scheduled meetings and conference calls related to the Project, if any, with
8 the USFWS. Ameren Missouri will also provide MDC a copy of all documents and/or
9 reports related to the Project, if any, that it provides to the USFWS at the same time as they
10 are provided to the USFWS.¹¹ The additional requirements requested by MDC through
11 testimony are burdensome and unnecessary.

12 **Q: Turning to Ms. Campbell's testimony, how do you respond to her proposed**
13 **conditions?**

14 A: As I mentioned above, Ms. Campbell believes that the Commission should require Ameren
15 Missouri to conduct a traffic count survey, a "viewshed" study, and provide conditions to
16 prevent the Company from constructing or operating any turbines within three miles of a
17 conservation area.¹² To justify these requirements she states that: "MDC is still determining
18 whether the nearby presence of wind turbines would adversely affect the public's use and
19 enjoyment of the Conservation Areas situated near the proposed Project, or if so, to what
20 degree."¹³ In other words, she has no evidence that this project – or any wind project – will
21 adversely impact the public's use and enjoyment of Conservation Areas, but she wants

¹⁰ U.S. Fish & Wildlife Service, 2011. Habitat conservation plans under the Endangered Species Act. Retrieved from: <https://www.fws.gov/endangered/esa-library/pdf/hcp.pdf>

¹¹ Application, Doc. No. 2, p. 12.

¹² Campbell Rebuttal, p. 11.

¹³ Campbell Rebuttal, p. 6.

1 Ameren Missouri (and its customers) to pay for these studies. In addition, Ms. Campbell
2 wants a three-mile buffer around any Conservation area. Setting aside the arbitrariness of
3 a three-mile buffer, MDC's restriction would also unnecessarily deprive landowners and
4 taxing entities within that zone of the financial benefits of having a turbine sited on their
5 property. As the Commission can see from the interest of counties and school districts in
6 the potential revenue from the Project, wind turbines can be a lucrative addition to property.

7 In response to MDC's proposed restrictions in another Ameren Missouri wind CCN
8 case, EA-2018-0202, I noted that the wildlife conditions might further some research MDC
9 would like to see conducted, but this is not a role the Commission should force Ameren
10 Missouri to undertake or its customers to fund. There is even less reason for the
11 Commission to require Ameren Missouri to adhere to these new conditions related to park
12 use. The conditions proposed by Ms. Campbell should be rejected.

13 **IV. Response to Tarkio R-1 School District, Atchison County, and DeKalb County**

14 **Q: Please summarize the testimony offered by these parties.**

15 A: These parties offer five witnesses, all asking the Commission to reject the project. In short,
16 they estimate their County or District would take in more revenue if the project were built,
17 owned, and operated by a non-regulated utility. Ms. Coleman testifies that Tarkio R-1
18 School District would see a "decline" in tax revenue and that it "relies on the income from
19 the wind farm[.]"¹⁴ Ms. Jones and Ms. Taylor testify that Ameren Missouri's application
20 should be denied because there would be "no appreciable local taxes collected and used in
21 Atchison County[.]"¹⁵ Ms. Zimmerman and Ms. Meek ask the Commission to reject the

¹⁴ Coleman Rebuttal, p. 1, 5.

¹⁵ Jones Direct, p. 6 (the testimony of Atchison County's Witnesses is labeled "Direct" although it was filed on the date for Rebuttal); Taylor Direct, p. 6 (Ms. Taylor indirectly admits some tax benefit by attaching the caveat "very little" rather than "no" benefits).

1 application because they believe it will have a negative impact on tax revenues in DeKalb
2 County.¹⁶

3 **Q: How do you respond?**

4 A: These parties' narrow focus on tax revenue ignores the many other benefits of adding wind
5 generation. First, this project is good for Ameren Missouri's customers. With the
6 Commission's approval, this project will be completed in time to maximize the benefits of
7 the federal production tax credits and give customers the best value for a project necessary
8 to comply with Missouri's renewable energy standards. Among the general benefits of
9 wind generation are lower fuel costs, lower operation and maintenance ("O&M") expenses,
10 and lower emissions. Second, in addition to providing customers cost-effective renewable
11 energy, this wind project will generate significant economic benefits including 200
12 construction jobs, five-eight permanent jobs, and landowner lease payments.¹⁷ Increased
13 employment opportunities associated with wind energy development is a significant
14 benefit and consistent with the findings in a recent American Wind Energy Association
15 ("AWEA") report that the role of wind turbine technician among the fastest growing
16 occupation in the country.¹⁸ These benefits will have a positive local impact even if the tax
17 revenues are not as lucrative as expected.

18 Third, a growing number of customers want more access to renewable energy
19 resources to meet their own sustainability metrics. This is evidenced by the dozens of major
20 companies that have signed on to support the Corporate Renewable Energy Buyers'

¹⁶ Zimmerman Direct, p. 4 (the testimony of DeKalb County's Witnesses is labeled "Direct" although it was filed on the date for Rebuttal); Meek Direct, p. 5.

¹⁷ Hyman Rebuttal, p. 4; Arora Direct, p. 25.

¹⁸ Report available at <http://awea.files.cms-plus.com/AWEA%20Economic%20Development%20Impacts%20of%20Wind%20Energy%20FINAL.pdf>; See also <https://www.bls.gov/ooh/fastest-growing.htm>

1 Principles and those listed by Division of Energy's Mr. Hyman in his Rebuttal.¹⁹
2 Furthermore, governmental bodies in Missouri are beginning to establish their own clean
3 energy goals. The largest being the City of St. Louis, an Ameren Missouri customer,
4 leading the way with a commitment to transition to 100 percent clean energy by 2035.²⁰
5 With this pressure from large utility customers that are industry leaders and local
6 governments Ameren Missouri must continue to look to renewable generation to meet
7 customers' need and preferences.

8 **Q: How do you respond to the School Board and Counties' concerns about tax revenues?**

9 A: As I mentioned above, these parties are unhappy that if Ameren Missouri owns this project
10 the operation of Missouri tax law dictates that the turbines will be spread out over Ameren
11 Missouri's service territory. Moreover, for DeKalb County, their assertion that tax
12 revenues will be negatively impacted is wrong. The Commission has already found that
13 "DeKalb County is not an Atchison County taxing authority and cannot be directly
14 adversely affected by the Commission's decision."²¹ Assessing all utility-owned wind
15 generation at a local level would benefit counties where the turbines are located, but that
16 change would have to come from the General Assembly. I am aware there is legislation
17 filed that would fix this and that is the proper course for this concern; not rejecting this
18 proposal. Rejecting the application for tax reasons alone would be contrary to the State's
19 Renewable Energy Standards that require electric utilities to generate or purchase
20 electricity generated from renewable energy resources, including a preference for in-state
21 generation. The Commission should recognize the benefits of this project and grant the
22 requested CCN and authority to merge.

¹⁹ <https://buyersprinciples.org/about-us/>; Hyman Rebuttal, pp 5-7.

²⁰ Board of Alderman of the City of St. Louis, Resolution No. 124, Session 2017-2018 available at <https://www.stlouis-mo.gov/internal-apps/legislative/upload/resolution/res124-pres.pdf>

²¹ *Order Granting DeKalb County's Application to Intervene*, Doc. No. 41, p. 3.

1 **Q:** **Does this conclude your testimony?**

2 **A:** Yes.

**CASE PARTICIPATION OF
JAMES OWEN**

<u>Date</u>	<u>Proceeding</u>	<u>Docket No.</u>	<u>On Behalf of:</u>	<u>Issues</u>
10/20/2017	In the Matter of a Working Case to Explore Emerging Issues in Utility Regulation	EW-2017-0245	Renew Missouri Advocates	Comments: Distributed Energy Resources
2/7/2018	In the Matter of the Application of The Empire District Electric Company for Approval of Its Customer Savings Plan	EO-2018-0092	Renew Missouri Advocates	Rebuttal: Customer savings plan, wind generation, Asbury retirement, federal tax changes
Rebuttal 7/27/2018 Surrebuttal (9/4/2018)	In the Matter of KCP&L Greater Missouri Operations Company's Request for Authority to Implement a General Rate Increase for Electric Service In the Matter of Kansas City Power & Light Company's Request for Authority to Implement a General Rate Increase for Electric Service	ER-2018-0145/ER-2018-0146	Renew Missouri Advocates	Rebuttal: Demand Response Program Surrebuttal: Demand Response Program
6/8/2018	In the Matter of the Application of Union Electric Company d/b/a Ameren	ET-2018-0063	Renew Missouri Advocates	Surrebuttal: Eligibility parameters, wind generation

	Missouri for Approval of 2017 Green Tariff			
9/17/2018	In the Matter of Union Electric Company d/b/a Ameren Missouri's 3rd Filing to Implement Regulatory Changes in Furtherance of Energy Efficiency as Allowed by MEEIA	EO-2018-0211	Renew Missouri Advocates	Surrebuttal: Statutory Requirements of MEEIA
9/28/2018	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 Necessity Authorizing it to Construct a Wind Generation Facility	EA-2018-0202	Renew Missouri Advocates	Surrebuttal: Second Non-unanimous Stipulation and Agreement; Need for the project; Conservation conditions
11/16/2018	In the Matter of the Application of Union Electric Company d/b/a Ameren Missouri for Approval of Efficient Electrification Program	ET-2018-0132	Renew Missouri Advocates	Surrebuttal: Charge Ahead Programs