

Exhibit No.:	
Issues:	Benefits of wind generation; Conservation conditions; OPC's CCN standard
Witness:	James Owen
Sponsoring Party:	Renew Missouri Advocates
Type of Exhibit:	Surrebuttal Testimony
Case Nos.:	EA-2019-0010
Date Testimony Prepared:	March 5, 2019

**MISSOURI PUBLIC SERVICE COMMISSION**

**EA-2019-0010**

**SURREBUTTAL TESTIMONY**

**OF**

**JAMES OWEN**

**ON BEHALF OF**

**RENEW MISSOURI ADVOCATES**

March 5, 2019

Renew  
Missouri Exhibit No. 300  
Date 4-9-19 Reporter BSB  
File No. EA-2019-0010



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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, Dr. Katheryn Bulliner, and Jennifer Campbell. As  
14 the department has done in several recent Wind cases, MDC asks the Commission to attach  
15 conditions to the requested Certificate of Convenience and Necessity (“CCN”). In this case,  
16 just as in the prior cases, these conditions are unnecessary and should be rejected. Second,  
17 I respond to the testimony filed by representatives of the Office of the Public Counsel  
18 (“OPC”). OPC’s witnesses want the Commission to apply a draconian standard that a  
19 utility must prove a project is immediately necessary to serve customers before the  
20 Commission will grant a CCN. That is not the law and ignores the myriad of reasons why  
21 wind projects are beneficial and in the public interest.

22 **Q: What is Renew Missouri’s interest in this application?**

23 A: Renew Missouri advocates for energy efficiency and renewable energy policy. As a state-  
24 wide advocate, Renew Missouri has an interest in Empire increasing the wind energy used

1 to satisfy Missouri’s Renewable Energy Standards (“RES”) and provide its customers cost-  
2 effective, renewable energy.

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

4 A: The Commission should grant Empire’s requested CCNs. With the Commission’s  
5 approval, this project will be completed in time to maximize the benefits of the federal  
6 production tax credits through a tax equity partner and gives customers the best value for  
7 a project that can aid Empire in complying with Missouri’s renewable energy standards.

8 In addition to allowing customers to benefit from economic, renewable generation,  
9 these wind projects create a variety of other benefits, including: payments to landowners,  
10 construction jobs, and increased state and local tax revenues.<sup>1</sup> Moreover, a growing number  
11 of customers want more access to renewable energy resources to meet their own  
12 sustainability metrics. This is evidenced by the dozens of major companies that have signed  
13 on to support the Corporate Renewable Energy Buyers’ Principles.<sup>2</sup> Governmental bodies  
14 in Missouri are also beginning to establish their own clean energy goals. With this pressure  
15 from large utility customers that are industry leaders and local governments the utilities in  
16 Missouri, including Empire, must continue to look to renewable generation to meet  
17 customers’ need and preferences. The Commission should grant the requested CCNs in  
18 this case to allow Empire to meet those needs and preferences.

19 **III. Response to MDC**

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

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

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<sup>1</sup> Hyman Rebuttal, p. 5; Mooney Direct, p. 24.

<sup>2</sup> <https://buyersprinciples.org/about-us/>.

1 discusses the potential impact the project may have on eagles and other birds.<sup>3</sup> Dr. Bulliner  
2 discusses the status of certain bat species in Missouri. Ms. Campbell explains her belief  
3 that the Commission should require Empire to attach conditions to projects located near  
4 conservation areas.<sup>4</sup>

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

6 A: The conditions proposed by MDC are overbroad and unnecessary. MDC’s witnesses  
7 recognize that Empire is following the process to seek a Habitat Conservation Plan  
8 (“HCP”)<sup>5</sup> and is involving MDC in preconstruction planning and meetings.<sup>6</sup> The fact is  
9 that Empire will comply with any United States Fish and Wildlife Service (“USFWS”)  
10 requirements that may be issued due to the presence of endangered species within the  
11 project area. The additional requirements requested by MDC through testimony are  
12 burdensome and unnecessary.

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

15 A: Ms. Campbell’s testimony goes beyond wildlife concerns, and asks the Commission to  
16 require Empire to conduct a traffic count survey and prevent the Company from  
17 constructing or operating any turbines within three miles of any conservation area.<sup>7</sup> To  
18 justify these requirements she states that: “MDC suspects the nearby presence of wind  
19 turbines would adversely affect the public’s use and enjoyment of [conservation areas].”<sup>8</sup>  
20 In response to similar restrictions proposed by MDC in other wind CCN cases, I noted that  
21 the “park use” conditions might further some research MDC would like to see conducted,

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<sup>3</sup> Haslerig Rebuttal, p. 14.  
<sup>4</sup> Campbell Rebuttal, p. 11.  
<sup>5</sup> Bulliner Rebuttal, p. 35.  
<sup>6</sup> *Id.*  
<sup>7</sup> Campbell Rebuttal, p. 11, 23.  
<sup>8</sup> Campbell Rebuttal, p. 19.

1 but this is not a role the Commission should force Empire to undertake or its customers to  
2 fund. There is even less reason for the Commission to require Empire to adhere to the  
3 conditions related to park use, especially when the project is not within a conservation area.  
4 The conditions proposed by MDC should be rejected.

5 **IV. Response to OPC**

6 **Q: Please summarize the testimony offered by OPC.**

7 A: Dr. Marke offers that the projects are “not needed for native load, reserve capacity  
8 requirements, or RES mandates” and also his belief that Empire’s modeling of the project  
9 benefits is flawed.<sup>9</sup> Mr. Robinett expresses his concerns about increases in the price of the  
10 wind farms since the EO-2018-0092 case, increases in the estimated purchase price to buy  
11 out the tax equity partner(s) ownership interest in the wind farms, declines in O&M  
12 expense estimations, and that the projects are not needed in their entirety to meet renewable  
13 energy standards.<sup>10</sup> Mrs. Mantle reiterates that these projects are not needed for Empire to  
14 meet its customer load requirements and explains her view that building the wind farms  
15 places too much risk on customers.<sup>11</sup> Mr. Riley discusses some concerns about Empire’s  
16 proposed financing before concluding that the projects are unnecessary to provide safe and  
17 adequate electric service to customers.<sup>12</sup>

18 It is clear that OPC – while claiming not to oppose wind generation generally –  
19 prefers Empire not build and own these projects as part of its regulated operations. As I  
20 mentioned above, OPC’s witnesses want the Commission to apply a standard that the utility  
21 must prove a project is absolutely necessary or else hold customers 100% harmless before  
22 the Commission will grant a CCN.

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<sup>9</sup> Marke Rebuttal, p. 8.

<sup>10</sup> Robinett Rebuttal, p. 2.

<sup>11</sup> Mantle Rebuttal, p. 4.

<sup>12</sup> Riley Rebuttal, p. 9-10.



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

2 A: When considering CCN applications the “term ‘necessity’ does not mean ‘essential’ or  
3 ‘absolutely indispensable’, but that an additional service would be an improvement  
4 justifying its cost.”<sup>13</sup> OPC’s testimony repeats that these projects are not necessary for  
5 Empire to provide safe and adequate service to its customers. Even if true, that fact does  
6 not mean the Commission should not grant a CCN. The Commission has broad discretion  
7 to determine when a project is in the public interest and can approve CCNs that are not  
8 immediately necessary to serve customers. Two recent examples are decisions granting  
9 solar CCNs in EA-2016-0208 and EA-2015-0256. In its Report and Order in Case No. EA-  
10 2016-0208 the Commission found customers “have a strong interest in the development of  
11 economical renewable energy sources to provide safe, reliable, and affordable service  
12 while improving the environment and reducing the amount of carbon dioxide released into  
13 the atmosphere.” Similarly, in Case No. EA-2015-0256, the Commission concluded:

14 customers and the general public have a strong interest in the development  
15 of economical renewable energy sources to provide safe, reliable, and  
16 affordable service while improving the environment and reducing the  
17 amount of carbon dioxide released into the atmosphere.

18 The overarching consideration for a CCN is whether the proposed project serves the public  
19 interest and developing economic, renewable generation does just that.

20 The Commission has some familiarity with Empire’s proposed wind projects  
21 stemming from Empire’s Customer Savings Plan (“CSP”) in Case No. EO-2018-0092 that  
22 preceded this CCN request. In that case, the Commission granted certain accounting  
23 authority and established depreciation rates necessary for Empire to move forward with its

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<sup>13</sup> *State ex rel. Intercon Gas, Inc. v. Pub. Serv. Commission of Missouri*, 848 S.W.2d 593, 597 (Mo. Ct. App. 1993).

1 plan to acquire 600 MW of wind. The Commission also recognized that “Empire’s  
2 proposed acquisition of 600 MW of additional wind generation assets is clearly aligned  
3 with the public policy of the Commission and this state”<sup>14</sup> and “that the millions of dollars  
4 in customer savings and the addition of renewable wind energy resulting from the CSP and  
5 the Joint Position could be of considerable benefit to Empire’s customers and the entire  
6 state.”<sup>15</sup> Approving the requested CCN is necessary step for customers to realize the  
7 potential benefits.

8 **Q: You mention that OPC wants the Commission to require Empire to hold customer’s**  
9 **harmless as a CCN condition. Do you agree that is an appropriate condition?**

10 **A:** No, I don’t think it is reasonable. OPC’s approach would require CCN applicants to either  
11 1) prove a project is immediately necessary to serve its customers or 2) guarantee  
12 customers are held harmless. As I discussed above, the law does not require a project be  
13 essential or absolutely indispensable and there is no basis for requiring a “hold harmless”  
14 guarantee if this is not shown. Applying those absolute terms could discourage companies  
15 from making any investment, including investments in renewable generation.

16 **Q: Are other means available to protect customers from the financial risks described by**  
17 **OPC in its testimony?**

18 **A:** First, I want to note that Empire’s analysis has shown this project will benefit customers  
19 on a long-term revenue requirement basis. From that point of view, this is a cost-effective  
20 project. Second, there are other parties in this case interested in protecting ratepayers.  
21 Several parties, including the industrial and commercial consumer representatives, the  
22 Commission’s Staff, and Renew Missouri have previously developed a Market Price  
23 Protection plan (“MPP”) that was included in a stipulation and agreement with Empire in

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<sup>14</sup> Case No. EO-2018-0092, Report and Order, p. 20.

<sup>15</sup> *Id* at 22.

1 EO-2018-0092. Although the stipulation and agreement was not approved in that case, it  
2 could provide a framework for reaching a resolution here.

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

4 **A: Yes.**

**CASE PARTICIPATION OF  
JAMES OWEN**

<b>Date</b>	<b>Proceeding</b>	<b>Docket No.</b>	<b>On Behalf of:</b>	<b>Issues</b>
10/20/2017	In the Matter of a Working Case to Explore Emerging Issues in Utility Regulation	EW-2017-0245	Renew Missouri Advocates	<b>Comments:</b> 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	<b>Rebuttal:</b> 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	<b>Rebuttal:</b> Demand Response Program  <b>Surrebuttal:</b> 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	<b>Surrebuttal:</b> 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	<b>Surrebuttal:</b> 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	<b>Surrebuttal:</b> 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	<b>Surrebuttal:</b> Charge Ahead Programs

## Schedule JO-1

1/15/2019	In the Matter of a Workshop Docket to Explore the Ratemaking Process	AW-2019-0127	Renew Missouri Advocates	<b>Comments:</b> Ratemaking Process
1/22/2019	In the Matter of the Application of Union Electric Company d/b/a Ameren Missouri for Permission and Approval and a Certificate of Convenience and Necessity Authorizing it to Construct a Wind Generation Facility	EA-2019-0021	Renew Missouri Advocates	<b>Surrebuttal:</b> Conservation conditions; Tax revenue; Benefits of wind generation