

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

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**RENEW MISSOURI'S POST-HEARING BRIEF**

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COMES NOW Renew Missouri Advocates d/b/a Renew Missouri (“Renew Missouri”), and presents its post-hearing brief to the Missouri Public Service Commission (“PSC” or the “Commission”):

**I. Introduction**

The Commission’s approval is sought to grant a Certificate of Convenience and Necessity (“CCN”) for a 150 MW solar facility – known as “Boomtown” – as well as to approve the associated Renewable Solutions commercial subscription program (“RSP” or the “Program”). Prior to filing its application, Union Electric Company d/b/a Ameren Missouri (“Ameren” or the “Company”) secured agreements with ten large commercial customers, representing an oversubscription of the facility. With this in mind, the Company anticipates Boomtown will be only the first of additional renewable resources dedicated to serving the RSP.

Ameren’s application is a clear reflection of the rapidly growing market for renewable energy access amongst our country and our state’s largest companies. With aggressive corporate sustainability goals and a legal framework that does not allow for direct power purchase agreements, Ameren has developed a subscription model that provides the renewable energy so demanded by its largest customers while providing benefits to non-subscribing customers in the form of lowered costs for a needed generation asset.

While this proposal represents a decisive win for subscribing customers and non-subscribing customers alike, the Company's application has been met with opposition from Staff of the Missouri Public Service Commission ("Staff") and the Office of Public Counsel ("OPC"). Concerningly, Staff seeks to apply a standard – unsupported by Commission precedent or state policy – to evaluate whether the CCN and the associated program serve the public interest. Staff and OPC's arguments represent an emerging trend towards anti-renewable sentiment that can be found as a consistent thread running throughout their testimony. This includes the refusal to acknowledge the benefits that renewables provide to customers, utilities, and the public, as well as the idea that customers who are interested in being served by more renewable resources are simply not intelligent enough to understand the complexities that go along with a transition of energy sources. Moreover, Staff and OPC refuse to recognize solar energy as a resource that can provide reliable energy to customers.

These arguments largely ignore the clear policy direction established by this Commission over the past ten years, which has consistently recognized that renewable resources provide economic, health, and environmental benefits to Missouri residents and businesses. Further, Staff's position devalues the importance of renewable energy in meeting the needs of large corporate customers for the benefit of Missouri's economic development. These factors have historically been considered by the Commission in determining whether the public interest is served. Renew Missouri believes these factors should continue to be part of this evaluation as they help to develop a holistic picture of how the state benefits from the use of renewable energy.

## II. Discussion

***Issue A(5): The Commission should find that approval of the Certificate of Convenience and Necessity is in the public interest.***

The Commission has broad discretion to determine that the environmental, health, and economic benefits of Boomtown promote the public interest. In fact, precedent is clear that, “(t)he Commission’s powers to regulate in the public interest ‘are broad and comprehensive’ and include the authority ‘to order improvements[,]’” (*In the Matter of Application of KCP&L Greater Missouri Operations Company*, 515 S.W.3d 754, 760 (Mo. App. W.D. 2016) (citing *Stopaquila.Org v. Aquila, Inc.*, 180 S.W.3d 24, 34-35 (Mo. App. W.D. 2005)), and that the public interest is a matter of policy to be determined by the Commission. *State ex rel. Public Water Supply District v. Public Service Commission*, 600 S.W.2d 147, 154 (Mo. App. 1980). Moreover, “It is within the discretion of the (Commission) to determine when the evidence indicates the public interest would be served.” (Case No. EA-2016-0208, *Report and Order* pp. 18-19)(citing *State ex rel. Intercon Gas, Inc. v. Public Service Com'n of Missouri*, 848 S.W.2d 593, 597-598 (Mo. App. 1993)). Finally, the Commission has held that determining the public interest is a balancing process, and that the total interests of the public served must be assessed. *In the Matter of Sho-Me Power Electric Cooperative’s Conversion from a Chapter 351 Corporation to a Chapter 394 Rural Electric Cooperative*, EFIS File No. EO-93-0259, 1993 WL 719871 (Mo. P.S.C.).

In addition to existing case law articulating the substantial discretion the Commission has to regulate in the public interest, prior Commission findings and clear policy guidance from the Legislature indicate the Commission may exercise its well-established and broad discretion to evaluate the public interest by considering factors outside the narrow scope proposed by Staff. In previous dockets, the Commission has concluded that, “... customers and the general public have a strong interest in the development of economical renewable energy sources to provide safe,

reliable, and affordable service while improving the environment and reducing the amount of carbon dioxide released into the atmosphere.”<sup>1</sup> Similarly, the Commission has previously concluded, “[i]t is the public policy of this state to diversify the energy supply through the support of renewable and alternative energy sources. The Commission has also previously expressed its general support for renewable energy generation because it provides benefits to the public.”<sup>2</sup> In File No. EO-2018-0092, the Commission recognized that, “Empire’s proposed acquisition of 600 MW of additional wind generation assets is clearly aligned with the public policy of the Commission and this state.”<sup>3</sup> Moreover, the Missouri Legislature has created clear policy guidance encouraging renewable energy investments through the Renewable Energy Standard,<sup>4</sup> the Plant-In-Service Accounting statute,<sup>5</sup> and the Securitization statute.<sup>6</sup> Finally, as noted by Renew Missouri witness James Owen, public policy set at the federal level unambiguously indicates support for investment in renewable energy to pave the way for the clean energy future.<sup>7</sup>

In contrast to the clear legal and policy guidance otherwise, Staff has adopted the narrowly constrained position that, “[w]hen additions of generating assets are tied to the physical needs of ratepayers, and the economic efficiency of fulfilling the identified ratepayer need is demonstrated, the public interest is promoted.”<sup>8</sup> This approach would severely constrict the discretion of the Commission and is entirely unsupported by case law and Commission precedent. Moreover, such a narrow view limits the Commission’s ability to properly evaluate and weigh the environmental and economic development benefits that renewables provide. Such a result is demonstrated by

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<sup>1</sup> EFIS File No. EA-2016-0208, Doc. No. 126; EFIS File No. EA-2015-0256, Doc. No. 84.

<sup>2</sup> EFIS File No. EA-2019-0010, Doc. No. 168 *Report and Order*, p. 32 (citing Sections 393.1025 and 393.1030 [Renewable Energy Standard]; and Section 393.1075 [Missouri Energy Efficiency Investment Act]).

<sup>3</sup> EFIS File No. EO-2018-0092, Doc. No. 228 *Report and Order*, p. 20.

<sup>4</sup> Sections 393.1025 and 393.1030, RSMo.

<sup>5</sup> Section 393.1400, RSMo.

<sup>6</sup> Section 393.1700 RSMo.

<sup>7</sup> EFIS File No. EA-2022-0245, Exhibit 600: *Surrebuttal Testimony of James Owen*.

<sup>8</sup> EFIS File No. EA-2022-0245, Exhibit 105: *Rebuttal Testimony of J Luebbert*.

Staff's testimony, which provides a wholly incomplete picture of the public interest served by Boomtown.

The Boomtown solar facility benefits Ameren ratepayers and the state generally through the addition of a cost-effective and needed resource into the generation mix as well as through the environmental benefits associated with solar energy and the reliability benefits of diversifying the generation mix. Contrary to Staff's factually unsupported assertions otherwise,<sup>9</sup> Ameren and Sierra Club presented credible evidence that solar generation from Boomtown *will* displace fossil generation on the MISO grid.<sup>10</sup> Further, Boomtown and the RSP will provide substantial benefits in terms of economic development through the ability of the state to attract new businesses or keep existing businesses from relocating. These benefits will be discussed more in depth below. The Commission should reject Staff's alarming attempt to redefine the public interest and determine that approving the Boomtown CCN serves the public interest through the same economic, environmental, and health factors it has consistently recognized for the better part of a decade.

***Issue C(1): The Commission should approve the Renewable Solutions Program.***

As discussed above, the public interest is served through the economic development benefits provided by renewable energy. Moreover, businesses actively consider access to sources of renewable energy when determining whether to move operations to or keep operations in Missouri. This important role has been explicitly acknowledged by the Commission, which stated, "Wind generation also helps corporations in Missouri to perform more competitively, as there is an emergence of corporate customer interest in renewable energy and corporations are seeking

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<sup>9</sup> See EFIS File No. EA-2022-0245, Exhibit 106: *Rebuttal Testimony of Michael Stahlman*. Staff witness Stahlman argues that the addition of Boomtown will not result in customers being served by cleaner generation. Mr. Stahlman also argues that Boomtown will only be operational until 2045 and is therefore not a positive step towards a cleaner future. It is unclear how Mr. Stahlman proposes to "green" the generation mix without adding renewables to it. Mr. Stahlman also seems to imply that emissions reductions prior to Ameren's 2045 net-zero goal carry no value.

<sup>10</sup> EFIS File No. EA-2022-0245, Exhibit 500: *Surrebuttal Testimony of Sarah Shenstone-Harris*; and Exhibit 12: *Surrebuttal Testimony of Steve Wills*.

increased options for purchasing renewable power.”<sup>11</sup> For example, Walmart witness Andrew Teague testified that,

“As stated above, large customers, such as Walmart, who have renewable and carbon free energy goals are currently unable to meet those goals solely through existing grid power under Ameren. A customer’s inability to achieve its renewable and carbon-free goals through grid power could result in the customer locating its facilities in a different area or state. For example, U.S. Steel recently announced the building of a new steel mill in Arkansas because of the available renewable energy from the local utility - Entergy Arkansas.”<sup>12</sup>

In addition, Missouri Industrial Energy Consumers witness Mark Schuerman testified that,

“Due to our considerable electricity demand as well as local regulation, Bayer has limited available options to reach our sustainability targets for those two sites. One option would be for us to invest in a solar project ourselves; however, we have limited capex for infrastructure projects and would prefer to invest capex in our core business R&D and production, allowing both Bayer and Ameren Missouri to concentrate on what each does best. Another option would be through the purchase of market RECs, but this would result in higher costs and lower sustainability benefits because it will not production of additional renewable energy. For these reasons, our best option to accomplish our sustainability targets in Missouri at this time would be to participate in a program such as that proposed by Ameren Missouri.”<sup>13</sup>

As Mr. Teague noted, large commercial customers in Missouri are currently unable to meet their aggressive sustainability goals through direct power purchase agreements<sup>14</sup> and are often unable to install solar behind the meter.<sup>15</sup> The realities portrayed in Mr. Teague and Mr. Schuerman’s testimony stand in stark contrast to Staff’s unsupported assertion<sup>16</sup> that such alternatives are readily viable. The RSP is an attractive method for subscribers to procure the renewable energy needed while placing very little burden on the subscriber to do so. It is reasonably foreseeable that future subscribers may be companies that consider this program in

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<sup>11</sup> EFIS File No. EA-2019-0010, Doc. No. 168 *Report and Order*, p. 21.

<sup>12</sup> EFIS File No. EA-2022-0245, Exhibit 401: *Surrebuttal Testimony of Andrew Teague*.

<sup>13</sup> EFIS File No. EA-2022-0245, Exhibit 302: *Surrebuttal Testimony of Mark Schuerman*.

<sup>14</sup> EFIS File No. EA-2022-0245, Exhibit 401: *Surrebuttal Testimony of Andrew Teague*.

<sup>15</sup> EFIS File No. EA-2022-0245, Transcript Volume 2, Pages 308-310.

<sup>16</sup> EFIS File No. EA-2022-0328, Exhibit 100: *Rebuttal Testimony of Cedric Cunigan*.



choosing to expand operations in or move operations to Missouri. In fact, Company witness Robert Dixon testified that, “[n]ot surprisingly, issues related to energy and access to renewables are prominent in *Area Development’s* examination of site selection decision-making factors because they are important business priorities. ‘Energy availability and costs’ was ranked as the third-most important factor influencing site selection decisions for the last two-years in the Corporate Survey.”<sup>17</sup> Mr. Dixon further explains that “energy availability and costs” is increasingly associated with renewables specifically, as 74% and 91% of corporate and consultant survey respondents, respectively, indicated that access to renewables was somewhat or very important to their companies.<sup>18</sup>

Further, the RSP delivers benefits to non-subscribing customers through reduced cost of a needed generation asset. The Company estimates the Program, along with the additional value added by the federal Inflation Reduction Act (“IRA”), will result in a total customer benefit of \$28.9 million in net present value revenue requirement.<sup>19</sup> Absent the Program and its subscribing customers, general ratepayers would be responsible for the full costs associated with the addition this resource. It is equally important to note that the Program is fully subscribed, with subscribers locked into binding contracts for participation and provisions to mitigate risk of a subscriber breaching the agreement. The cost benefit to customers and protections baked into the Program design ensure that there is a tangible economic benefit the RSP delivers to Ameren ratepayers as a whole.

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<sup>17</sup> EFIS File No. EA-2022-0245, Exhibit 006P: *Surrebuttal Testimony of Robert Dixon*.

<sup>18</sup> *Id.*

<sup>19</sup> See EFIS File No. EA-2022-0245, Exhibit 008P: *Supplemental Direct Testimony of Lindsey J. Forsberg*, describing the benefits delivered by subscriber payments, pricing structure of the Program, and the availability of Production Tax Credits under the Inflation Reduction Act.

While economic development is an important policy consideration for the state, it is entirely ignored by Staff. Rather, Staff witnesses focus on their notion that corporate sustainability goals and ratepayer opinions on renewables are insufficient to support the Company's application. Staff witness J Luebbert provides this testimony to illuminate his point:

- “Q. Are there customers that would prefer to be served exclusively by fossil-fueled resources that are dispatchable to meet market prices and system needs?  
A. **Probably.** However, it would also not be appropriate for Ameren Missouri to justify the addition of a large coal-fired plant, to be paid by all ratepayers, based primarily on that subset of ratepayers' desires [emphasis added].”<sup>20</sup>

Staff simply asserts this unsubstantiated straw-man conjecture as fact for the Commission to consider. In fact, Mr. Luebbert makes no attempt to even validate this argument with an example of an actual customer who is publicly seeking to be served exclusively by fossil fuel generation in Missouri. Perhaps even more concerning, Staff states:

“It is likely that a subset of Ameren Missouri ratepayers would like to be served by more renewable generation and less fossil-fueled generating resources. However, I expect that it is unlikely for most of those ratepayers to understand the implications of Ameren Missouri's MISO participation on the generation fleet serving their load, the dispatchability of resource types, or the cost implications of adding substantial investments in renewables to rate base without offsetting retirements.”<sup>21</sup>

In addition to being brazenly patronizing and dismissive, the notion that commercial (or residential) ratepayers seeking access to renewable resources cannot understand the implications of the addition of these resources is patently untrue. To be clear, the “subset” of customers relevant to this docket that would like to be served by more renewables are corporations of massive scale that are some of the state's largest energy consumers. Take Walmart as an example. Walmart is an Ameren Missouri customer with aggressive sustainability goals that include being supplied by 100 percent renewable energy by 2035 and is currently served by, or has contracted to be served by,

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<sup>20</sup> EFIS File No. EA-2022-0245, Exhibit 105: *Rebuttal Testimony of J Luebbert*.

<sup>21</sup> *Id.*

renewables in 29 states.<sup>22</sup> Walmart’s witness and Senior Manager of Energy Services, Andrew Teague, has participated in numerous utility dockets around the country.<sup>23</sup> The same is likely to be true for most, if not all, of the large corporate subscribers to the Program. To imply that this subset of customers dove headlong into this Program without understanding the mechanics or implications of participation is simply nonsensical and factually unsupported by the record in this case.

Finally, Staff notes that its witnesses are not generally opposed to renewable energy and recognizes that, “...the electric utilities that provide service in Missouri should be *evaluating* the move to more renewables as generation needs are identified... [emphasis added]”<sup>24</sup> However, the time for *evaluating* the transition to renewable energy has long passed. It is an irrefutable reality that the clean energy transition has been set in motion, and Missouri will be left in the dust if its largest utilities are not able to compete. The lack of urgency demonstrated by Staff ignores the sworn testimony of one of Missouri’s largest employers that the inability to procure renewables may result in companies locating elsewhere. With this high volume of corporate demand, as well as the IRA making renewable investments more cost effective than ever, one message is clear: *now is the time for action*.

Approval of the RSP will communicate a message that Missouri will support companies with a presence in the state that are seeking renewable energy and will welcome new companies seeking to invest in Missouri, bringing jobs, infrastructure, new revenue for the state, and least-cost energy for customers. The Commission should approve the RSP to continue our state’s

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<sup>22</sup> EFIS File No. EA-2022-0245, Exhibit 401: *Rebuttal Testimony of Andrew Teague*.

<sup>23</sup> *Id.*

<sup>24</sup> EFIS File No. EA-2022-0245, Exhibit 105: *Rebuttal Testimony of J Luebbert*.

progress towards a renewable future while assuring companies interested in renewable energy that Missouri is open for business.

### **III. Conclusion**

The Boomtown solar facility and the associated Renewable Solutions Program deliver a range of benefits to subscribing and non-subscribing customers in a manner that stimulates economic development, mitigates risk, and lowers the cost of a generation resource that will provide needed clean energy. While Staff argues that Boomtown and the Program do not serve the public interest under an overly narrow analysis, the overwhelming weight of the evidence presented demonstrates that the Company, its ratepayers, and the state of Missouri will benefit from approval of Ameren's application. The Commission should, under its broad discretion to determine and regulate in the public interest, reject Staff and OPC's narrow and short-sighted arguments and approve the CCN and the Renewable Solutions Program.

WHEREFORE, Renew Missouri submits its *post-hearing brief*.

Respectfully,

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Certificate of Service

I hereby certify that copies of the foregoing have been emailed to all counsel of record this 3<sup>rd</sup> day of March 2023:

**/s/ Alissa Greenwald**

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