

**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                    )

**POST-HEARING REPLY BRIEF OF  
THE MISSOURI INDUSTRIAL ENERGY CONSUMERS**

COMES NOW the Missouri Industrial Energy Consumers (“MIEC”) and for its Post-Hearing Reply Brief states as follows:

**I.        Reply to Staff**

The Staff asserts that the Commission should not approve the Project and RSP because (1) Ameren can meet its energy needs through MISO;<sup>1</sup> (2) Ameren is not required to be a net purchaser of energy in MISO;<sup>2</sup> (3) the Project will not remove non-renewable energy resources from rate base;<sup>3</sup> (4) the Project’s revenues will not exceed its costs<sup>4</sup>. Additionally, Staff recommends that ratepayers not participating in the RSP be held harmless during any rate review period if the costs of the Project exceed its revenues<sup>5</sup>, and that RSP subscribers bear 100 percent of Project costs<sup>6</sup>.

Contrary to Staff’s positions, the record shows as follows:

1. Ameren Missouri cannot rely on MISO for all generation needs. NERC has warned that MISO reserves could fall below acceptable levels this summer, with

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<sup>1</sup> Staff Post-Hearing Brief, p. 9, ll. 1-18

<sup>2</sup> Id. at p. 12 – 13.

<sup>3</sup> Id. at pp. 9-10.

<sup>4</sup> Id. at p. 3.

<sup>5</sup> Id.

<sup>6</sup> Id. at p. 21.

increasing risks in later years.<sup>7</sup> Solar power is necessary not only for reliability but also to prevent ratepayers from bearing the costs of extreme price spikes in summer months when MISO is constrained. Prudent management requires that Ameren provide sufficient generation and a mix of resources so that customers can have reliable power and avoid extreme price risk. Relying on MISO in lieu of adding renewable generation is not a prudent strategy.<sup>8</sup>

2. The Project and RFP are needed because they provide a least-cost resource to meet Ameren's capacity needs in the next several years. No party to this case has asserted the Project is needed on the basis that Ameren must sell more energy into MISO than it purchases.
3. The Project is needed regardless of whether it will cause an immediate reduction in Ameren's fossil fuel generation. Time is necessary to bring the project online. If the Commission were to require immediate reduction in fossil fuel resources to justify adding renewable resources, this would lead to the absurd result that renewable generation would never be added.
4. Whether the Project's revenues exceed its costs is irrelevant in this case. Ameren is required to maintain sufficient generation resources to provide safe and reliable service at just and reasonable rates. Ameren has met the legal requirements that the Project combined with the RSP is needed for future supply and is a least-cost option. This fulfills the legal standard that the Project will provide a service which justifies its costs. There is no basis in Missouri law for the Commission to impose a requirement that utility investments lead to revenue production.

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<sup>7</sup> Ex. 2P, Surrebuttal Testimony of Ajay Aurora, p. 9, l. 13 – p. 12, l. 12.

<sup>8</sup> Id. at p. 14, Figure 2; p. 12, ll. 15—18, p. 15, ll. 19-22; p. 18, ll. 7-9.

5. Staff's proposal to require subscribers to bear 100 percent of any adverse economic impacts of the Project in exchange for receiving the benefit of all MISO revenues generated from the Project would result in unlawful discrimination, because it would require one group of customers to bear risk and cost for a generation resource that serves all customers.<sup>9</sup> Moreover, there is no basis in the evidence to determine the MISO benefits of the project. To the extent that MISO benefits were to be proven, they should be allocated to all customers.

## II. Reply to the Office of Public Counsel

OPC asserts that the Commission should not approve the Project and RSP because (1) Ameren's current firm capacity should not be retired, and if it is nevertheless retired it should be replaced with other firm capacity and not renewables;<sup>10</sup> (2) revenues from the Project and RSP revenues will not exceed the cost;<sup>11</sup> (3) the Project will expose ratepayers to increased risk of insufficient energy to meet customer demands, especially in extreme weather;<sup>12</sup> (3) the RSP's pricing should be considered in Ameren's current rate case;<sup>13</sup> (4) the RSP should require a 50/50 cost sharing between Ameren and subscribers.<sup>14</sup>

1. OPC's position that current firm capacity either should not be retired, or if it is retired should only be replaced with firm capacity, would lead to the absurd result that Ameren would never be able to add renewable resources. This ignores the extensive evidence in this case that Ameren needs to add a mix of firm and

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<sup>9</sup> Staff Post-Hearing Brief at p. 21

<sup>10</sup> OPC Post-Hearing Brief at p.

<sup>11</sup> Id. at p. 5

<sup>12</sup> Id. at p. 4

<sup>13</sup> Id. at pp. 11-12

<sup>14</sup> Id. pp. 7-11.

renewable generation for the least cost plan and to meet customer needs for renewable power options.

2. Contrary to OPC's position, the addition of solar resources to Ameren's generation mix will increase system reliability. The evidence shows that the Project is needed in the near term as part of Ameren's generation mix to meet summer demand, address existing reliability concerns and avoid price spikes that would be harmful to all customers.<sup>15</sup>
3. It is not relevant whether the Project will generate revenues exceeding its cost. The Project is needed for future supply, and the combined Project and RSP create a least-cost option – therefore demonstrating that the Project will provide a service which justifies its cost. There is no basis in Missouri law for the Commission to require that utility investments lead to revenue production.
4. The RSP's pricing is not based on cost-of-service; instead, it is based on a voluntary agreement by subscribers to bear an increase in above-fixed costs in exchange for the value of RECs while reducing Project cost and risk to non-subscribers. It would serve no purpose to evaluate the RSP based on Ameren's current or prior rate case cost-of-service studies.
5. OPC's 50/50 sharing proposal would result in inequitable and discriminatory rates. The Project and RSP are designed to add a necessary resource for the benefit of the entire Ameren system. Imposing this mechanism would unlawfully discriminate against subscribers, who have already voluntarily agreed to bear additional fixed costs under the RSP.

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<sup>15</sup> Ex. 2P, Surrebuttal Testimony of Ajay Aurora, p. 9, l. 13 – p. 12, l. 12; p. 14, Figure 2; p. 12, ll. 15–18, p. 15, ll. 19-22; p. 18, ll. 7-9

### **III. The Commission Staff and OPC Fail to Recognize the Economic Development Benefits of the Project and RSP.**

Throughout this case, Staff and OPC have disregarded to the evidence presented by each of the other parties to this case regarding the importance of renewable energy to Missouri's economic development.

Ameren witness Robert Dixon serves as Ameren Missouri's Director of Economic and Community Development. In this role, he leads Ameren's economic, community and business development efforts. Prior to joining Ameren, he served as Director of the Missouri Department of Economic Development from July of 2017 through October of 2021.<sup>16</sup>

Mr. Dixon's testimony demonstrates a critical connection between economic development and the need for the Project and RSP, showing that: (1) demand for clean, reliable and affordable energy is an increasingly important factor in determining where businesses locate new jobs and investment; (2) Missouri is competing with other states for new jobs and investment from businesses that have large energy demand and a need for renewable energy resources; and (3) customer preferences and corporate sustainability goals are important signals from Missouri's large employers that their energy needs should not be dismissed.

Energy and access to renewables have become important business priorities in site selection decision-making. "Energy availability and costs" has been ranked for the last two years as the third-most important factor influencing site selection decisions of corporate decision makers and site selection consultants in the annual

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<sup>16</sup> Ex.6P, Surrebuttal Testimony of Robert Dixon at p. 11, ll. 9-18.

surveys by *Area Development Magazine*, a prominent economic development trade publication.<sup>17</sup> These surveys showed that 74 percent of corporate respondents indicated that access to renewable resources was either very or somewhat important to their company, and 91 percent of the site selection consultant respondents indicated that access to renewable energy resources was either very or somewhat important to their clients' location decisions.<sup>18</sup>

While utilities are not often considered to be in a competitive business because customers have no choice on who provides their energy at a particular location, the economic development aspect of energy generation is very competitive because customers can choose among many possible locations around the world. Economic development and energy policy are important for their impact on Missouri's position relative to other states in competing for large economic development opportunities.<sup>19</sup> This is demonstrated by the testimony of MIEC witness Maurice Brubaker showing that tariffs by which customers can acquire RECs are prevalent in the utility industry. Schedule MEB-3 to Mr. Brubaker's surrebuttal testimony summarizes the key programs and features of many of these tariffs.<sup>20</sup>

As noted by Ameren witness Dixon, renewable energy generation policies and the implications of corporate priorities signal future investment decisions by leading employers both within and outside Missouri who are competing on a global stage. These major employers are expressly communicating their energy

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<sup>17</sup>Dixon Surrebuttal p. 8, l. 10 – p. 10, l. 2.

<sup>18</sup> Id. at p.12, l. 8—p. 13, l. 15.

<sup>19</sup> Id. at p. 16, l. 16—p. 17, l.6.

<sup>20</sup> Ex. 301, Surrebuttal Testimony of Maurice Brubaker, p. 9, ll. 1—7; Schedule MEB-3.

preferences in a way they believe will help them succeed. In doing so, they will evaluate locations based on their ability to meet their goals. The Project and RSP create an “open for business” sign that helps make Missouri an attractive location for jobs and future investment.<sup>21</sup>

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<sup>21</sup> Dixon Surrebuttal at. p. 22, ll. 1—16.

Respectfully submitted,

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**CERTIFICATE OF  
SERVICE**

I do hereby certify that a true and correct copy of the foregoing document has been emailed to all parties on the Commission's service list in these cases.

/s/ Diana M. Plescia