

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

In the Matter of Union Electric Company d/b/a )  
Ameren Missouri's 3<sup>rd</sup> Filing to Implement Regulatory )  
Changes in Furtherance of Energy Efficiency as ) **File No. EO-2018-0211**  
Allowed by MEEIA )

In the Matter of Union Electric Company d/b/a )  
Ameren Missouri's Tariffs 2022 Integrated ) **File No. EO-2022-0100**  
Resource Plan Annual Updates )

**RESPONSE TO PUBLIC COUNSEL'S MOTION**

**COMES NOW** the Staff of the Missouri Public Service Commission, by and through the undersigned counsel, and states

1. On March 14, 2022, the Office of the Public Counsel (OPC) filed a motion asking the Commission to either order Union Electric Company d/b/a Ameren Missouri to use its 2022 market potential study to support its 2024-2026 MEEIA application, or to provide written or verbal affirmation that the Commission agrees with OPC's concerns.

2. On March 15, 2022, the Commission issued its *Order Directing Response*, ordering Ameren Missouri and Staff to respond to OPC's *Motion for Commission Order* no later than March 29, 2022.

3. As fully detailed in the attached memorandum, Staff does not disagree with OPC's concerns and is not opposed to OPC's recommendation for Ameren Missouri to use its 2022 market potential study to inform its MEEIA Cycle 4 application.

**WHEREFORE**, Staff submits this pleading for the Commissions information and consideration.

Respectfully submitted,

**/s/ Casi Aslin**

Casi Aslin

Missouri Bar No. 67934

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Missouri Public Service Commission

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was delivered to the parties and/or their counsel of record by U.S. Postal Service postage prepaid, or by hand, or served electronically, on this 29th day of March, 2022.

**/s/ Casi Aslin**

## MEMORANDUM

TO: Missouri Public Service Commission Official Case Files  
File No. EO-2018-0211 and File No. EO-2022-0100  
Union Electric Company d/b/a Ameren Missouri

FROM: Brad J. Fortson, Regulatory Compliance Manager

DATE: /s/ Brad J. Fortson 3/29/2022                      /s/ Casi Aslin 3/29/2022  
Commission Staff Division / Date                      Staff Counsel Department / Date

SUBJECT: Staff Response to Office of the Public Counsel's *Motion for Commission Order and Memorandum*

DATE: March 29, 2022

### **Background**

On March 14, 2022, the Office of the Public Counsel (“OPC”) filed its *Motion for Commission Order and Memorandum* (“Motion”) requesting the Commission either order Union Electric Company d/b/a Ameren Missouri (“Ameren Missouri” or “Company”) to use its 2022 market potential study (“MPS”) to inform its 2024-2026 Missouri Energy Efficiency Investment Act (“MEEIA”) application (“Cycle 4”), or provide written or verbal affirmation that the Commission agrees with OPC’s concerns. On March 15, 2022, the Commission issued its *Order Directing Response* ordering Staff and Ameren Missouri to respond to OPC’s Motion no later than March 29, 2022.

OPC’s concern is that Ameren Missouri plans to use its 2019 MPS to inform its MEEIA Cycle 4 application instead of its 2022 MPS. OPC states that Ameren Missouri’s market has significantly changed since its last MPS. OPC notes a number of variables that the 2019 MPS did not consider. That list includes a global pandemic, inflation, early retirement of Rush Island, Advanced Metering Infrastructure, Time-of-Use rates, Plant-In-Service-Accounting investments, Midcontinent Independent System Operator transmission investments, Pay As You Save®, FERC 2222, and the frequency and impact of fuel volatility related to natural and manmade events.

### **Timelines**

Based on preliminary discussions with Ameren Missouri, the Company is currently defining the scope of work for a new MPS and is in talks with a third-party to contract that work. The MPS itself will take several months to complete and the Company anticipates completion in March of 2023. The Company then intends for the new MPS to inform its 2023 triennial integrated resource plan (“IRP”). The IRP is anticipated to be completed and filed with the Commission in October of 2023. Once filed with the Commission, Staff has 150 days to conduct a review of the Company’s IRP and provide a report.<sup>1</sup> Other stakeholders may file a report or comments within

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<sup>1</sup> 20 CSR 4240-22.080(7).

the same 150 days.<sup>2</sup> If any stakeholder has any concerns or alleges deficiencies, they are to work with the Company and the other parties to reach a joint agreement on a plan to remedy the identified concerns and deficiencies within 60 days.<sup>3</sup> If full agreement on a remedy cannot be reached, the Commission will issue an order which indicates what items, if any, a hearing will be held and which establishes a procedural schedule.<sup>4</sup> This process will last well into 2024.

An important output of the IRP process is the Company's resource acquisition strategy. Resource acquisition strategy means a preferred resource plan, an implementation plan, a set of contingency resource plans, and the events or circumstances that would result in the utility moving to each contingency resource plan. It includes the type, estimated size, and timing of resources that the utility plans to achieve in its preferred resource plan.<sup>5</sup> The preferred resource plan is the resource plan that is contained in the resource acquisition strategy that has most recently been adopted by the utility decision-maker(s) for implementation by the electric utility.<sup>6</sup> The preferred resource plan also includes estimated retirement dates of energy generating units/plants. Ameren Missouri's current preferred resource plan assumes a retirement date for its Rush Island plant of 2039.<sup>7</sup> On December 11, 2021, Ameren Missouri determined that its current preferred resource plan was no longer appropriate and instead of costly updates to Rush Island, it should proceed to retire Rush Island by a date to be determined by the Eastern District.<sup>8</sup> 20 CSR 4240-22.080(12) states in part that,

If, between triennial compliance filings, the utility's business plan or acquisition strategy becomes materially inconsistent with the preferred resource plan, or if the utility determines that the preferred resource plan or acquisition strategy is no longer appropriate... the utility, in writing, shall notify the commission within sixty (60) days of the utility's determination and shall serve notice on all parties to the most recent triennial compliance filing. The notification shall include a description of all changes to the preferred plan and acquisition strategy, the impact of each change on the present value of revenue requirement, and all other performance measures specified in the last filing pursuant to 20 CSR 4240-22.080 and the rationale for each change.

The Company requested, and the Commission granted, a variance from the 60-day provision of 20 CSR 4240-22.080(12) to allow it until July 15, 2022, to file the information required by 20 CSR 4240-22.080(12).

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<sup>2</sup> 20 CSR 4240-22.080(8).

<sup>3</sup> 20 CSR 4240-22.080(9).

<sup>4</sup> 20 CSR 4240-22.080(10).

<sup>5</sup> 20 CSR 4240-22.020(51).

<sup>6</sup> 20 CSR 4240-22.020(46).

<sup>7</sup> Case No. EO-2021-0021. On September 27, 2020, Ameren Missouri filed its *Request for Waiver of 60-Day Requirement and Motion for Protective Order and 2020 IRP Filing*. On August 18, 2021, the Commission issued its *Order Regarding 2020 Integrated Resource Plan* in which it stated "Pursuant to Commission Rule 20 CSR 4240-22.080(16)(A), the Commission finds that the 2020 triennial Integrated Resource Planning filing made by Ameren Missouri complies with the requirements of this chapter, and that the utility resource's acquisition strategy meets the standards stated in 20 CSR 4240-22."

<sup>8</sup> Case No. EE-2022-0192. Ameren Missouri's *Request for Variance and Waiver of 60-Day Notice Requirement*.

Ameren Missouri's current MEEIA Cycle 3 will end December 31, 2023.<sup>9</sup> Ameren Missouri has stated that it will likely file its MEEIA cycle 4 application in the fourth quarter of this year to be effective January 1, 2024. Once that application is filed, the Commission will approve, approve with modification acceptable to the Company, or reject such applications within 120 days.<sup>10</sup> Often, the 120-day procedural schedule will be suspended to allow for stakeholders to continue settlement discussions. The Company currently has a few additional months built in to their timeline to account for additional time needed past the 120 days. Once an application is approved, the Company has also included six months for startup and contracting for MEEIA Cycle 4.

The background and timelines above are at the heart of where the issue lies. Ideally, the Company would complete a current MPS,<sup>11</sup> that MPS would then inform its triennial IRP, the triennial IRP would determine the most appropriate resource mix,<sup>12</sup> including the level of demand-side management, then based on both MPS and IRP guidance, the Company would file its MEEIA application. However, the current preliminary timeline that has been proposed does not allow for that. The way it currently stands, a MEEIA Cycle 4 application would be filed prior to the completion of the 2022 MPS and 2023 IRP. This approach leads to a MEEIA Cycle 4 application being informed by older data. MEEIA Cycle 4 would be informed by the 2019 MPS, and it is Staff's understanding it would also be informed by the updated preferred resource plan mentioned above to be filed on July 15, 2022. OPC is correct that the 2019 MPS does not take into account a number of significant issues that have taken place in the last couple years. However, this is not the first time there has been a timing issue with a MEEIA application. For each of the Company's three 3-year MEEIA cycles<sup>13</sup> to date, the MPS data relied on has been at least five years old by the end of each respective cycle. As mentioned above in footnote eight, the Company's MEEIA Cycle 3 has been extended through 2023. The MPS data relied on for the initial MEEIA Cycle 3 will be upwards of seven years old by the end of 2023. Seven years is roughly how old the data from the 2019 MPS will be by the end of a 3-year MEEIA Cycle 4.

## **Conclusion**

Given certain significant issues that have taken place over the past few years, Staff does not disagree with OPC's concerns and is not opposed to OPC's recommendation for Ameren Missouri to use its 2022 MPS to inform its MEEIA Cycle 4 application. However, in order to do that, the

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<sup>9</sup> Case No. EO-2018-0211. The Commission's October 25, 2018, *Order Approving Stipulation and Agreement and Granting Waivers* allowed for MEEIA Cycle 3 from March 1, 2019 – December 31, 2021. The Commission's August 5, 2020 *Order Approving Stipulation and Agreements* allowed for MEEIA Cycle 3 to be extended through December 31, 2022. The Commission's *Order Approving Stipulation and Agreement Regarding MEEIA Plan Year 2023, Approving Tariff Sheet, and Granting Variances* allowed for MEEIA Cycle 3 to be extended through December 31, 2023.

<sup>10</sup> 20 CSR 4240-20.094(4)(H).

<sup>11</sup> 20 CSR 4240-20.094(3)(A)2. The market potential study shall be updated with primary data and analysis no less frequently than every three (3) years. To the extent that primary data for each utility service territory is unavailable or insufficient, the market potential study may also rely on or be supplemented by data from secondary sources and relevant data from other geographic regions.

<sup>12</sup> Annual updates are provided by the Company between triennial IRP filings. The preferred plan could potentially change annually. While the preferred plan seldom changes between triennial IRP filings, if, and when, it does, the level of demand-side management could change and would likely need to be addressed in the current MEEIA docket.

<sup>13</sup> MEEIA Cycle 3 was initially approved for March 1, 2019 – December 31, 2021. Case No. EO-2018-0211.

Company's current preliminary timeline will need to change.<sup>14</sup> This would also mean that the MEEIA Cycle 4 application would not be informed by the 2023 IRP since the 2023 IRP is not scheduled to be filed until October, 2023, and the Company wants a MEEIA Cycle 4 effective January 1, 2024. Though at this time Staff would not anticipate the Company's preferred resource plan from the 2023 IRP to be substantially different than its updated preferred resource plan to be filed on July 15, 2022. Staff agrees the updated preferred plan should inform the MEEIA Cycle 4 application and since the updated preferred plan will be filed on July 15, 2022, no MEEIA Cycle 4 application should be filed prior to that. However, in order for the MEEIA Cycle 4 application to be informed by the 2022 MPS, the MPS completion date would need to be pushed up or the MEEIA Cycle 4 application filing pushed back or more likely a combination of both.

Based on the current expectation that the MPS will be completed in March, 2023, a MEEIA Cycle 4 application could be filed shortly after which would allow for the 120-day MEEIA timeline for a Commission order and potentially still allow 1 – 2 months for additional settlement discussion. This should also allow for a Commission order in time for MEEIA Cycle 4 to be effective on January 1, 2024. It would not, however, allow for much time at all for startup and contracting as the Company currently has built in to their timeline as mentioned above. However, Staff does not believe that much time should be needed for this given the many years of experience Ameren Missouri now has in implementing its MEEIA programs. In addition, every week or month Ameren Missouri could shorten the MPS completion date would add that time to moving up the MEEIA filing. Stakeholders could discuss ways to narrow the scope of work of the MPS to focus more on the primary research needed to inform the next MEEIA cycle. However, if the Commission determines that a MEEIA application should not be filed until the 2022 MPS and 2023 IRP are completed, the Company can do as it has for 2022 and 2023 and request an extension(s) until such time that the 2023 IRP process is complete.

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<sup>14</sup> The Company's current preliminary timeline is an informal timeline solely created by Ameren Missouri.

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d/b/a Ameren Missouri's 3<sup>rd</sup> Filing to ) File No. EO-2018-0211  
Implement Regulatory Changes in )  
Furtherance of Energy Efficiency as Allowed )  
by MEEIA )

In the Matter of Union Electric Company d/b/a )  
Ameren Missouri's Tariffs 2022 Integrated ) File No. EO-2022-0100  
Resource Plan Annual Updates )

**AFFIDAVIT OF BRAD J. FORTSON**

STATE OF MISSOURI )  
 ) ss.  
COUNTY OF COLE )

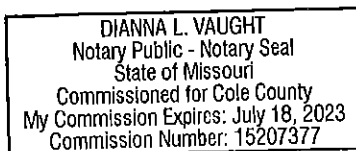
**COMES NOW BRAD FORTSON** and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing *Response to Public Counsel's Motion*; and that the same is true and correct according to his best knowledge and belief.

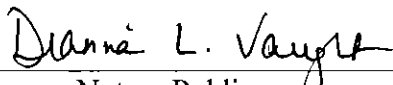
Further the Affiant sayeth not.

  
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**BRAD J. FORTSON**

**JURAT**

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 29<sup>th</sup> day of March, 2022.



  
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Notary Public