

The Parties

2. Staff is the Staff of the Missouri Public Service Commission, acting through the Staff Counsel as authorized by Commission Rule 4 CSR 240-2.070(1).

3. Union Electric Company, d/b/a Ameren Missouri (“AmMo”), is a wholly-owned subsidiary of Ameren Corporation, a publicly-traded utility holding company. Pursuant to the Missouri Secretary of State’s website, AmMo’s principal place of business is One Ameren Plaza, 1901 Chouteau, St. Louis, Missouri 63103. AmMo’s registered agent is Steven R. Brophy, 500 East Independence Drive, Union, Missouri 63084.

Jurisdiction

4. AmMo is in the business of generating, transmitting and distributing electricity to customers for light, heat and power. AmMo is thus an “electric corporation” and a “public utility” as defined in § 386.020, (15) and (43), RSMo., and is subject to the regulatory jurisdiction of this Commission under chapters 386 and 393, RSMo.

5. The Commission has jurisdiction over the subject matter of this Complaint because it involves AmMo’s obligations under statutes administered by the Commission, in particular, its obligation to provide safe and adequate service at just and reasonable rates to all persons and entities requesting such service within its Commission-authorized service area. Sections 386.250(1); 393.130.1, RSMo.

6. Section 386.390.1, RSMo, authorizes the Commission to hear and determine complaints:

Complaint may be made by the commission of its own motion, or by the public counsel or any corporation or person, chamber of commerce, board of trade, or any civic, commercial, mercantile, traffic, agricultural or manufacturing association or organization, or any body politic or municipal corporation, by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any corporation, person or public utility,

including any rule, regulation or charge heretofore established or fixed by or for any corporation, person or public utility, in violation, or claimed to be in violation, of any provision of law, or of any rule or order or decision of the commission

7. The Commission has by Rule 4 CSR 240-2.070(1) authorized the Staff Counsel to bring complaints on the behalf of the Staff: “A complaint may also be filed by . . . the commission staff through the staff counsel”

8. The authority to bring complaints necessarily extends to and encompasses the authority to pursue investigations. Section 393.140, RSMo.

Issues

9. On August 20, 2021, the United States Court of Appeals for the Eighth Circuit issued its decision in *Sierra Club v. Ameren Missouri*, Case No. 19-3220, wherein it affirmed the finding of AmMo’s liability for violations of the CAA at Rush Island made by the United States District Court for the Eastern District of Missouri; specifically, the district court “enter[ed] a finding of liability against Ameren,” concluding that “the Rush Island Unit 1 and 2 projects . . . were major modifications under the CAA, Ameren violated the PSD¹ program’s requirements “by failing to obtain a preconstruction permit and install best available pollution control technology,” and Ameren violated Title V of the CAA.” The 8th Circuit stated, “In summary, the district court found Ameren in violation of the CAA for “mak[ing] major modifications to expand Rush Island’s capacity” without “apply[ing] for a PSD permit and meet[ing] reduced emissions requirements.” By failing to “apply for the

¹ In 1977, Congress amended the CAA “to add the ‘Prevention of Significant Deterioration’ (“PSD”) program, which seeks to ensure that the ‘air quality floor’ established by the National Ambient Air Quality Standards (“NAAQS”) does not ‘in effect become a ceiling.’” *Id.* (quoting *Sierra Club v. Thomas*, 828 F.2d 783, 785 (D.C. Cir. 1987)).

required PSD² permit,” Ameren “skirted PSD’s requirement to install the best available technology to control the pollution Rush Island emits.” “To remedy [Ameren’s] violation of the Clean Air Act,” the district court ordered Ameren to “apply for a PSD permit for Rush Island within ninety days, propose wet FGD³ as BACT⁴ in its permit application, and implement BACT no later than four and one-half years from [the] order.” “In addition to the relief [the court] order[ed] at Rush Island, [it] also order[ed] Ameren to reduce its pollution at Labadie in an amount equal to Ameren’s excess emissions at Rush Island.” It left Ameren the option whether to “install[] DSI or some other more effective pollution control at Labadie.” The 8th Circuit affirmed the district court in all respects but one: it determined that the Labadie injunction was improper and remanded the matter to the district court for further proceedings.

10. In December 2021, AmMo filed a *Motion to Modify* seeking to substitute early retirement of Rush Island for the ordered remedy of permit acquisition and wet FGD installation, stating “Today, Ameren announced its intent to retire the Rush Island Energy Center early due to changed circumstances since the Remedy Ruling. Retiring Rush Island early will have a much more beneficial environmental impact, on a far shorter timeframe, than installing wet flue gas desulfurization (“FGD”) technology and continuing operations. Retiring Rush Island’s two 600-megawatt electric generating units, however, is not a simple matter. Potential grid stability and reliability impacts and other downstream effects must be evaluated, and those issues that are identified must be addressed. The system operator, the Midcontinent Independent System Operator, Inc. (“MISO”), has an

³ FGD is “flue gas desulfurization technology.”

⁴ BACT is “best available control technology.”

established process for reviewing and approving the early retirement of a generating source, which includes assessment of reliability impacts. MISO's review process for Rush Island's early retirement is already ongoing, and the results of MISO's initial assessment are expected in mid-January 2022."

11. AmMo supported its *Motion to Modify* with a detailed description of the complex considerations and wide-ranging ramifications of the early retirement of Rush Island, as follows: "The early retirement of a generating asset such as Rush Island is a significant and complex undertaking, because, among other reasons, the plant is integral to the stability and reliability of the transmission network and its retirement requires the approval of MISO, which controls the dispatch of the units. To comply with this Court's Remedy Ruling, Ameren will retire both Rush Island units on a timeline to be determined in conjunction with MISO and, in any event, no later than the compliance deadline established by this Court. MISO must evaluate any potential reliability issues—a process that has already begun. MISO may determine that Rush Island is needed for some period as a System Support Resource ("SSR"), and require certain upgrades to the transmission grid to be completed before Rush Island can be retired. If MISO determines that Rush Island is not needed for grid reliability purposes, however, then the plant's retirement could occur much more quickly. A preliminary indication of MISO's reliability assessment will come as early as mid-January 2022. MISO's preliminary study assessment of grid stability and reliability effects from Rush Island's retirement has already been initiated by Ameren's filing of a so-called Y-2 application with MISO on October 20, 2021. Ameren filed this application after analyzing a variety of possible effects (transmission, voltage support, and grid reliability, among other issues) of Rush Island's retirement on the ability

to reliably serve customers. Two potential reliability impacts have been identified by Ameren.

A. The first reliability issue concerns the regulation of voltage levels on the transmission grid in the St. Louis metropolitan area, an issue that is particularly important during the air-conditioning season. Rush Island provides voltage support to the grid as a transient voltage recovery (“TVR”) resource that can help absorb and smooth out sudden voltage spikes that are caused by random transient events that impact the transmission grid. These include events like storms, lightning strikes, high winds, and falling trees that down power lines. Retiring Rush Island will eliminate the considerable amount of TVR support the facility provides; and it is likely that substitute TVR resources will be necessary to make up for the loss of Rush Island. Without adequate voltage support, these random transient events could cause voltage dips or surges that result in wide-spread system outages, in violation of reliability standards required by the North American Electric Reliability Corporation (“NERC”). To avoid such power outages or disruptions, it is possible to install on the transmission grid other devices whose function is to provide TVR support. MISO could require such devices to be installed before it will allow Rush Island to shut down. Ameren preliminarily estimates these substitute TVR devices will cost approximately \$90 million.

B. The second reliability concern is to ensure grid stability during winter months to prevent cold-weather outages such as those recently experienced during Winter Storm Uri in February 2021. During that storm, unseasonably cold temperatures across the Midwest and South resulted in large outages and

transmission emergencies for several system operators, including MISO. At the same time, such extreme cold events have the potential to freeze critical energy infrastructure (as happened to numerous facilities in Texas). These impacts cause cascading failures, including loss of gas supply, inoperable generating units, and downed transmission lines. As a result of Winter Storm Uri, reliability standards set by NERC now require more robust generating capacity be made available during “local forecasted cold weather.” In order to mitigate the risk to the St. Louis metropolitan area from an extreme winter event, Ameren believes it is prudent, until Rush Island retires, to operate the plant during the winter months (December – February) to support the grid and to ensure that the units are available to respond instantaneously, should MISO issue a reliability directive to available generators. MISO’s Y-2 assessment is expected to be completed in approximately one month. At that time, and subject to MISO’s input and approval, Ameren expects to determine the retirement date for Rush Island and if MISO identifies Rush Island to be an SSR and, if so, on the schedule for construction of new TVR resources to address the voltage support issue. If MISO deems them necessary, these TVR projects are expected to cost approximately \$90 million, and to take up to 30 months to complete following formal approval by MISO. While MISO’s modeling analysis incorporates discrete variables, such inputs do not necessarily encompass emergency events such as those presented by the unexpected cold temperature experienced during Winter Storm Uri, and Ameren intends to raise such issues with MISO given that experience and the recent concerns raised by both NERC and the Federal Energy Regulatory Commission (“FERC”) regarding grid stability.”

12. Plaintiff the United States, and Intervenor Sierra Club, predictably oppose AmMo's *Motion to Modify* and urge the district court to require the retirement of Rush Island in 26 weeks, regardless of its impact on the welfare of the citizens of this state.

13. It is noteworthy that AmMo nowhere in its *Motion* indicates any obligation to seek any authority from the Commission.

14. Staff seeks to open this investigatory docket in order to gather the material facts, monitor the further progress of the federal litigation, and take whatever steps are necessary to safeguard and protect the interests and welfare of Missouri's ratepayers.

WHEREFORE, on account of all the foregoing, Staff now moves the Commission to act as follows:

1. Open an investigatory docket as described herein;
2. Order Staff to investigate and file a report in this case file regarding the impact of the retirement of Rush Island, AmMo's plans, if any, to mitigate the effects of that retirement; the prudence of AmMo's actions and decisions with respect to Rush Island; an accounting of all expenses suffered by the ratepayers, or likely to be suffered by the ratepayers, due to any imprudence by AmMo; and
3. Grant such other and further relief as is just in the circumstances.

Respectfully submitted,

/s/ Kevin A. Thompson

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