

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

In the Matter of the Establishment of a Working)
Case for the Review and Consideration of) File No. GW-2022-0060
Promulgating a Rule Consistent with Section 386.895)

AMEREN MISSOURI’S INITIAL COMMENTS

COMES NOW Union Electric Company d/b/a Ameren Missouri (“Company” or “Ameren Missouri”), and responds to the Missouri Public Service Commission's ("Commission") *Order Requesting Comments* effective August 2, 2023, which directs any stakeholder wishing to submit written comments in answer to the questions presented by Commission Staff ("Staff") in Attachment A to the *Order* to do so no later than September 18, 2023. Ameren Missouri provides the following initial comments:

1. As a preliminary matter, Ameren Missouri appreciates the opportunity to provide these comments and otherwise participate in this docket. The Company looks forward to providing more specific comments on the actual proposed rule(s) once developed.
2. Staff's very detailed list of questions in Attachment A to the *Order* covers three main topics, and the Company's comments are organized under those topics: Renewable Natural Gas ("RNG") Programs, Hydrogen, and PGA Recovery.
3. Ameren Missouri does not attempt to address every single question posed in Attachment A, but seeks to provide overarching positions on what the Company views as the key issues.

RNG Programs

4. While Ameren Missouri appreciates the depth of Staff's RNG Programs questions, such a deep dive without a clear understanding of the lynchpin issue — whether the RNG program is "voluntary" for customers or "voluntary" for gas corporations — appears futile.

5. At the June 13, 2023 Workshop in this docket, the Office of Public Counsel ("OPC") presented an interpretation of the RNG Statute, §386.895, RSMo., that "the [RNG] rules should require gas corporations to offer a renewable natural gas program that customers may voluntarily participate in."¹ In contrast, representatives of gas corporations explained their alternative interpretation: "the rules allow gas corporations to voluntarily create renewable natural gas programs that all customers are required to participate in and/or pay for."²

6. OPC's interpretation turns on what OPC's counsel Clizer describes as "THE CRITICAL SENTENCE" of §386.895, which appears in subsection 2: "The commission shall adopt rules for gas corporations to offer a voluntary renewable natural gas program."³ Note however, there is no deadline for when the Commission must adopt rules set out in that allegedly critical sentence. If gas corporations were to be required to offer RNG programs to customers, under OPC's interpretation, a deadline for such rules to be promulgated and potentially even emergency rulemaking authority would have been established.

7. Also, OPC's focus on one sentence is inappropriate here; the entire section should be read in harmony. It is well settled that "[t]he provisions of a legislative act are not read in isolation but construed together, and if reasonably possible, the provisions will be harmonized with each other."⁴ Furthermore, "[i]nsight into the legislature's object [or intent] can be gained by identifying the problems sought to be remedied and the circumstances and conditions existing at the time of the enactment."⁵

¹ File No. GW-2022-0060, EFIS Item No. 13, Presentation – Properly Interpreting Section 386.895 – Office of Public Counsel – June 13, 2023, at slide 3.

² *Id.*

³ *Id.*, at slide 2.

⁴ *Bachtel v. Miller Cnty. Nursing Home Dist.*, 110 S.W.3d 799, 801 (Mo. 2003) (citing *State, Missouri Dept. of Soc. Servs., Div. of Aging v. Brookside Nursing Ctr., Inc.*, 50 S.W.3d 273, 276 (Mo. banc 2001); *Hagely*, 841 S.W.2d at 667)).

⁵ *Id.* (citing *Sermchief v. Gonzales*, 660 S.W.2d 683, 688 (Mo. banc 1983)).

8. When read in harmony with the other provisions of the RNG Statute, it is clear that the Legislature intended for gas corporations to choose whether or not to offer RNG programs to customers, and OPC's interpretation is plainly incorrect.

9. Subsection 1(7) of the RNG Statute defines "Renewable natural gas infrastructure" as "all equipment and facilities for the production, processing, pipeline interconnection, and distribution of renewable natural gas *to be furnished to Missouri customers.*"⁶ Thus, the Legislature identified the pool from which recovery of costs for RNG infrastructure would occur — the gas corporation's Missouri customers. The use of "furnished to Missouri customers" in the definition instead of "participating" or "volunteering" customers" or "Missouri customers voluntarily participating in a renewable natural gas program" further suggests that it is voluntary for a gas corporation to decide whether to offer an RNG program to its Missouri customers.

10. Subsection 2(2) explains that Rules to be adopted by the Commission for the Programs "shall include ... Rules for establishing a process for gas corporations to fully recover incurred costs that are prudent, just, and reasonable associated with a renewable natural gas program." Under OPC's interpretation, only customers who volunteer to participate in an RNG program would pay the costs incurred for the program, and if customers do not volunteer to participate, the gas corporation offering the program may not recover its incurred costs. OPC's interpretation would in effect render subsection 2(2) meaningless.

11. Subsection 3(1) explains that an RNG program is to propose to procure a total volume of RNG over a specific period — i.e., to create a target volume of RNG to be procured. There is no suggestion of a target number of participating customers as would be expected under

⁶ *Emphasis added.*

OPC's interpretation. Without knowing that number of participating customers, it would be very difficult to develop any target related to the volume of gas to be procured.

12. Subsection 5 is particularly illustrative of the Legislature's objective in the RNG Statute in light of the "problems sought to be remedied and the circumstances and conditions existing at the time of the enactment."⁷ If a gas corporation wanted to offer a program whereby its customers could voluntarily participate in a program to support RNG, it could have done so without any legislative action. Indeed, electric corporations like Ameren Missouri have offered programs for many years that allow their electric customers to support renewable energy generation development, including the Community Solar Pilot program. Under Ameren Missouri's Community Solar Pilot program, the program charge was set in advance of customers subscribing to the program, to be collected only from subscribing customers, and the facilities charge component is reset through electric general rate cases. However, in order to establish an automatic rate adjustment mechanism or "RAM," as set out in subsection 5 of the RNG Statute, legislative action was required. In further contrast, a RAM allows for periodic adjustment of charges outside of general rate cases, is collected from all customers, and is set only after the RNG infrastructure is placed into service.

13. Accordingly, Ameren Missouri's answers to Staff's RNG Programs questions 3.a. and 3.b. on Attachment A are set out below:

3. Subsection 386.895.2, RSMo, states, in part: The commission shall adopt rules for gas corporations to offer a voluntary renewable natural gas program.

a. Does this statute authorize, but not require, a program applicable to customers who volunteer to participate?

Ameren Missouri's answer: No, that is not consistent with the statute.

⁷ See footnote 5.

- b. Does this statute authorize, but not require, that utilities offer a program to generally inject biogas into the gas supply, the costs of which are borne by all customers of that utility whether or not a given customer volunteers to participate?

Ameren Missouri's answer: Yes, that is the only reasonable interpretation of the statute.

14. Staff's RNG Programs questions 9.a. through 9.d. (and their corresponding subparts) on Attachment A relate to proposed gas quality standards, which were also the subject of File No. AW-2021-0064. Ameren Missouri's positions on RNG quality standards remain consistent with its Initial Comments in File No. AW-2021-0064, including:

- a. Ameren Missouri agrees that alternative gas should be of pipeline quality and interchangeable with pipeline supply. Interchangeability analysis should be a prerequisite before alternative gas is accepted into a municipal or Local Distribution Company ("LDC") system.
- b. However, Ameren Missouri recommends expanding the proposed rule to include periodic alternative gas testing and sampling requirements to ensure the alternative gas continues to meet pipeline quality standards. Alternative gas suppliers should be required to continuously verify key quality measures such as heat content and moisture content.
- c. Furthermore, Ameren Missouri recommends the standards with minimum values have some time-dependent averages to avoid requiring immediate shut down for a single data point that does not meet the specifications. Ameren Missouri's experience with data sets using frequent time intervals often exhibit one-time errors or single data points out of compliance where the gas quality was acceptable over a longer (thirty-minute) interval. Automated control systems programmed with

overly stringent criteria may cause an excess number of shutdowns that are problematic, not only for the alternative supplier, but to the system operator, without a justifiable quality issue. For example, under Subsection 2 of Staff's proposed amendments to 20 CSR 4240-10.030 in File No. AW-2021-0064, the following time-dependent clarification could be helpful: "The minimum Btu cannot be less than 980 Btu/scf for any thirty-minute period or less than 950 Btu/scf for any time interval."

- d. Ameren Missouri recommends that the Commission allow for LDCs and municipalities to set quality standards and constituent limits to maintain the integrity of their systems by further clarifying Subsection 10, paragraph D, as follows (deletions in strikethrough and additions italicized and bold):

(D) All alternative gas delivered into a natural gas distribution system shall be substantially free of impurities that may cause excessive fumes when burned in a properly designed and adjusted burner, ***and substantially free from objectionable constituents and matter***; and each gas utility, including municipal systems, shall ~~ensure~~ ***limit*** the quantity of impurities such as hydrogen sulfide, nitrogen, or other combustible or noncombustible, noxious, or toxic gas impurities ***and objectionable constituents so that the gas delivered is*** ~~are~~ within the limits recognized in good natural gas utility practice. For example, bacteria and siloxane limits may not be identified in interstate pipeline tariffs, but the municipality or LDC should have the ability to set reasonable limits in an interconnection agreement between parties.

15. Ameren Missouri appreciates the Commission Pipeline Safety Program's focus on gas quality concerns to ensure gas corporations and gas pipeline operators' systems are not jeopardized through the addition of renewable natural gas.

Hydrogen

16. The technical feasibility and policies for Hydrogen as a fuel and Hydrogen-blending with natural gas are evolving quickly under our feet. Ameren Missouri continues to explore the use of Hydrogen as a fuel and potential Hydrogen-blending options. To date, no specific projects for dedicated pipeline networks for the purposes of transporting Hydrogen or blended Hydrogen have been developed or announced by Ameren Missouri.

PGA Recovery

17. Ameren Missouri assumes the commodity costs of the RNG molecules would flow through the PGA mechanism of the gas corporation who is voluntarily offering the RNG program. Subsection 5 of the RNG Statute specifies that any "qualified investment" costs may be recovered through a RAM. That RNG Statute is silent on whether additional attributes of the RNG are to be tracked and monetized, and if so, how such funds would be treated. However, the Commission may promulgate rules to implement the RNG Statute under subsection 9, and could articulate a methodology for the tracking, monetization, and accounting treatment for such funds.

Respectfully submitted,

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Dated: September 18, 2023

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been emailed to the parties of record on this 18th day of September, 2023.

/s/ Jermaine Grubbs
Jermaine Grubbs