

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

In the Matter of the Union Electric Company)
d/b/a Ameren Missouri’s 4th Filing to)
Implement Regulatory Changes in Furtherance)
of Energy Efficiency as Allowed by MEEIA) Case No. EO-2023-0136

**REPLY TO AMEREN MISSOURI’S OPPOSITION IN
RESPONSE TO APPLICATION TO INTERVENE OF
ENERWISE GLOBAL TECHNOLOGIES, LLC D/B/A CPOWER**

COMES NOW Enerwise Global Technologies, LLC d/b/a CPower (“CPower”), by and through its undersigned counsel, and respectfully files its Reply to Union Electric Company d/b/a Ameren Missouri’s (“Ameren’s”) February 2, 2024, Response in Opposition to CPower’s¹ January 31, 2024, Application to Intervene in this matter. In support of this Reply, CPower states as follows:

1. In Ameren’s Response, it first complains that CPower did not participate in any stakeholder meetings scheduled before the filing of this case and did not show any interest in participating in the case until well after the April 11, 2023, intervention deadline. As such, Ameren argues that there is no good cause for late intervention. Ameren’s argument fails because CPower had no actionable interest at that time, because Aggregators of Retail Customers (“ARCs”), like CPower, were not allowed to participate in Missouri due to the Commission’s 2010 Order in Case No. EW-2010-0187.² CPower could not have plausibly filed an Application

¹ Ameren Missouri’s Response in Opposition was directed to the Petitions to Intervene of both Voltus, Inc. (“Voltus”) and CPower. Voltus filed their “Reply to Ameren Missouri’s Response in Opposition to Motion to Intervene” in this case on February 5, 2024. Voltus’ Reply is adopted by reference into this Reply. *Mo. R. Civ. P. No. 55.12*.

² Case No. EW-2010-0187, *Order Temporarily Prohibiting the Operation of Aggregators of Retail Customers*, p. 5 (Mar. 31, 2010).

to Intervene within the original intervention deadline because at that time it had no interest in the case that could be distinguished from the general public. CPower's interest different from the general public only became apparent when the Commission's 2023 Order allowing limited participation of ARCs in Case No. EW-2021-0267 ("2023 Order") became effective on January 1, 2024.

2. Ameren next complains that CPower should have filed its Application to Intervene timely after the Commission issued the 2023 Order on October 12, 2023. However, Ameren fails to mention that the 2023 Order was designated to be effective on December 11, 2023. Orders of the Commission are typically subject to motions for rehearing, modification, or clarification, and that is exactly what happened in that case. In fact, the October 12, 2023, Order was subject to a Motion for Clarification,³ responses to that motion,⁴ an Order extending the effective date of the October 12, 2023, Order to January 1, 2024,⁵ and a December 13, 2023, Order Granting Clarification that became effective on January 1, 2024.⁶ Under these circumstances, the Commission should not consider CPower's Application to Intervene filed on January 31, 2024, in this case to be untimely.

3. Finally, Ameren argues that CPower has no interest different than the general public because it is not an Ameren customer and cannot participate in Ameren's demand side programs. Ameren's interpretation of the phrase "different than the general public" is unreasonably narrow in focus and contrary to the law and Commission rules. 20 CSR 4240-2.075 provides that an intervenor's interest must be different than the general public, or their intervention must serve

³ Case No. EW-2021-0267, *Motion for Clarification* filed by Evergy Missouri Metro and Evergy Missouri West, EFIS Item No. 49 (November 7, 2023).

⁴ Case No. EW-2021-0267, *CPower Response to Evergy's Motion for Clarification*, EFIS Item No. 54 (November 27, 2023); *Voltus, Inc.'s Response to Evergy's Motion for Clarification*, EFIS Item No. 53 (November 27, 2023).

⁵ Case No. EW-2021-0267, *Order Extending The Effective Date*, EFIS Item No. 55 (November 29, 2023).

⁶ Case No. EW-2021-0267, *Order Granting Clarification*, EFIS Item No. 56 (December 13, 2023).

the public interest. In its Application to Intervene, CPower shows that it meets both of these standards. CPower has an interest that is different from that of the general public in that it can now participate in the Missouri market, competing with Ameren's demand-side programs and plans being considered in this MEEIA case. As such, CPower has direct and immediate interests in this proceeding that are inadequately represented by the other parties in this matter.⁷ Also, given CPower's vast experience as the largest demand-side aggregator in the U.S., granting intervention to CPower would serve the public interest by allowing CPower's experience, interests, and insight, that are not possessed by the current parties, to be a part of the MEEIA process.

4. CPower has provided ample information to show it has satisfied the standards set out in 20 CSR 4240-2.075 for intervention in this case and has established good cause for the Commission to grant late intervention.

WHEREFORE, CPower respectfully requests that the Commission grant its Application to Intervene, entitling it to fully participate in this proceeding.

Respectfully submitted,

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⁷ In Voltus' Reply, it notes that "The Commission has previously recognized that any person with a liberty or property interest that will be directly affected by the outcome of a proceeding should be permitted to intervene, and has also held that an economic interest supports permissive intervention under both the Commission's rules and civil rules" citing File No. WO-2002-273, *In the Matter of the Joint Application of Missouri-American Water Company et al. For an Accounting Authority Order Relating to Security Costs, Order Granting Intervention*, April 16, 2002. *Voltus, Inc's Reply to Ameren Missouri's Response in Opposition to Voltus' Motion to Intervene*, EFIS No. 42 (February 4, 2023) at 4.

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all parties on the official service list for this case on this 6th day of February, 2024.

/s/ Terry M. Jarrett
Terry M. Jarrett