

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

In the Matter of the Petition of Union)
Electric Company d/b/a Ameren Missouri)
for a Financing Order Authorizing the)
Issue of Securitized Utility Tariff Bonds)
for Energy Transition Costs related to)
Rush Island Energy Center)

Case No. EF-2024-0021

**PUBLIC COUNSEL’S RESPONSE TO AMEREN MISSOURI’S
SUBMISSION OF DISTRICT COURT TRANSCRIPT**

COMES NOW the Office of Public Counsel (“Public Counsel”) and responds to Ameren Missouri’s submission of the transcript of the status hearing held before Judge Rodney W. Sippel on March 28, 2024, in the case *United States of America and Sierra Club v. Ameren Missouri*, before the United States District Court for the Eastern District of Missouri, Eastern Division, docketed as Case No. 4:11-cv-00077-RWS as follows:

1. During that hearing Judge Sippel pointed out and directed as follows:

THE COURT: I mean, it is what I said in my opinion; that a decision was not reasonable. [("A reasonable power plant operator would have known that the modifications undertaken at Rush Island's Units 1 and 2 would trigger PSD requirements. Ameren's failure to obtain PSD permits was not reasonable.")]. And that's not mentioned anywhere to the PSC. In fact, Ameren continues to take the position that despite this Court's findings and its findings be affirmed in all respects by the U.S. Court of Appeals the decision was not reasonable, you went to the PSC and told them that it was. That's fine.

What I'm going to ask you to do is to order a copy of today's transcript and send that to the Public Service Commission for them to evaluate it, however they see fit, based upon their standards. And they'll make their own decision on that basis.

2. Ameren Missouri provides argument in its pleading, but context is important.
3. Attached are three federal court opinions that provide context to the opinion to

which Judge Sippel referred at the status hearing. The first is [*United States v. Ameren Mo.*, 421 F. Supp. 3d 729](#), where on page 794 in finding of fact no. 393 the opinion language the court

quoted appears. The second is the opinion [United States v. Ameren Mo., 229 F. Supp. 3d 906 \(E.D. Mo. 2017\)](#) to which Judge Sippel referred in finding of fact no. 393 (pages 915-916, 1010-14). The third opinion is [United States v. Ameren Mo., 9 F.4th 989 \(8th Cir. 2021\)](#) in which the 8th Circuit lays out a history of Judge Sippel's decisions that preceded the appeal it decided in that case.

Wherefore, Public Counsel responds to Ameren Missouri's submission of the transcript of the status hearing held before Judge Rodney W. Sippel on March 28, 2024, as set forth above.

Respectfully,

/s/ Nathan Williams

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 9th day of April 2024.

/s/ Nathan Williams