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MISSOURI PUBLIC SERVICE COMMISSION

INDUSTRY ANALYSIS DIVISION

ENERGY RESOURCES DEPARTMENT

CORRECTED REBUTTAL TESTIMONY

OF

BRAD J. FORTSON

UNION ELECTRIC COMPANY d/b/a AMEREN MISSOURI

CASE NO. EF-2024-0021

Jefferson City, Missouri
February 2024

**TABLE OF CONTENTS OF
CORRECTED REBUTTAL TESTIMONY
OF
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UNION ELECTRIC COMPANY d/b/a AMEREN MISSOURI
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1
2
3
4
5
6
7
8
9
10
11
12

EXECUTIVE SUMMARY.....1

INTEGRATED RESOURCE PLANNING AND RUSH ISLAND.....2

1 A. No, my rebuttal testimony is informational only and provides no specific
2 recommendations in regard to this case.

3 **INTEGRATED RESOURCE PLANNING AND RUSH ISLAND**

4 Q. How has Ameren Missouri planned for Rush Island in its most recent triennial
5 compliance filing, filed on September 26, 2023?¹

6 A. Rush Island Energy Center was assumed to be retired by December 31, 2024² in
7 all of Ameren Missouri's alternative resource plans.

8 Q. As a part of its 2020 Triennial Compliance Filing, did Ameren Missouri evaluate
9 any plans that included the near-term retirement of Rush Island due to the potential outcome of
10 losing Rush Island litigation?

11 A. Yes. Those plans were designated as confidential in that filing so I will not go
12 into detail about those plans, only that they evaluated certain near-term retirement dates and
13 related costs vs. retrofit costs. However, none of those plans were chosen as Ameren Missouri's
14 preferred resource plan. The plan chosen as Ameren Missouri's preferred resource plan in its
15 2020 Triennial Compliance Filing and illustrated in the public version of its filing included the
16 retirement of Rush Island in 2039.

17 Q. Did Ameren Missouri evaluate any plans that included the near-term retirement
18 of Rush Island due to the potential outcome of losing the Rush Island litigation in any prior
19 triennial compliance filings?

20 A. No. In its 2014 and 2017 Triennial Compliance Filings
21 (Case Nos. EO-2015-0084 and EO-2018-0038, respectively), Ameren Missouri evaluated at

¹ On December 20, 2023, Ameren Missouri filed its *Supplemental IRP filing of Chapter 6 and Chapter 9*.

² *Supplemental IRP filing of Chapter 6 and Chapter 9*, Chapter 9 – Integrated Resource Plan and Risk Analysis (both highly confidential and public), Case No. EO-2024-0020, pg. 5.

1 | least one plan in each that included the retirement of Rush Island in 2024. However, the 2024
2 | retirement date was used in regards for the potential of an explicit price on carbon starting in
3 | 2025, not the potential for losing the Rush Island litigation. In Case No. EO-2015-0084, the
4 | 2024 date was used “to avoid significant costs associated with environmental compliance or
5 | environmental risk... In the case of Rush Island, the potential for an explicit price on carbon
6 | starting in 2025... was the primary driver for the alternative retirement date.”³ In Case No.
7 | EO-2018-0038, the 2024 date was used “to avoid significant costs associated with
8 | environmental regulations; the potential for an explicit price on carbon starting in 2025...
9 | was the primary driver for the alternate retirement date.”⁴ I am not aware of any plan evaluated
10 | that included the near-term retirement of Rush Island due to the potential outcome of losing the
11 | Rush Island litigation in its 2011 Triennial Compliance Filing. Therefore, it is Staff’s
12 | understanding that Ameren Missouri did not evaluate any plans that included the near-term
13 | retirement of Rush Island due to the potential outcome of losing the Rush Island litigation until
14 | its 2020 Triennial Compliance Filing.

15 | Q. How long had the Rush Island issue been litigated before the recent federal court
16 | ruling?

17 | A. My understanding is the Environmental Protection Agency (“EPA”) filed the
18 | suit in early 2011.

19 | Q. Does that mean that Ameren Missouri could have, or should have, been planning
20 | for the possibility of having to install a flue gas desulfurization system at Rush Island or the
21 | near-term retirement of Rush Island since 2011?

³ *Electric Utility Resource Filing of Union Electric Company d/b/a Ameren Missouri*, chapter 9 – integrated resource plan and risk analysis.pdf, pg. 4, in Case No. EO-2015-0084.

⁴ *Request for Waiver of 60-Day Requirement*, chapter 9 – integrated resource plan and risk analysis.pdf, pg. 4, in Case No. EO-2018-0038.

1 A. Yes, it seems reasonable, or appropriate, that Ameren Missouri would have been
2 planning for such a court ruling as far back as its 2011 Triennial Compliance Filing. Yet, in
3 discussions with Ameren Missouri over the years on its resource planning, it is my
4 understanding that it has been Ameren Missouri’s policy to not take issues being litigated and
5 their potential outcomes into consideration in its resource planning modeling. Further, in its
6 filing, *Sierra Club Comments*, in Case No. EO-2018-0038, the Sierra Club alleged Ameren
7 Missouri was deficient by stating, “Ameren also fails to consider or even mention possible
8 future costs or operating restrictions associated with the January 2017 finding in federal court
9 that it violated the Clean Air Act at the Rush Island plant in 2007 and 2010.” In its *Response*
10 *Of Ameren Missouri To Alleged Deficiencies And Concerns* in Case No. EO-2018-0038,
11 Ameren Missouri responded to the Sierra Club’s alleged deficiency by stating, “At the time of
12 the filing of the 2017 IRP, the referenced case was active. It would be inappropriate for Ameren
13 Missouri to comment on this active case in its IRP.”

14 Q. How do the Chapter 22 rules define a contingency resource plan?

15 A. 20 CSR 4240-22.020(7) defines a contingency resource plan as an alternative
16 resource plan designed to enhance the utility’s ability to respond quickly and appropriately to
17 events or circumstances that would render the preferred resource plan obsolete.

18 Q. From the time the EPA filed its suit against Ameren Missouri, was there a
19 predictable risk that the ruling in that case would lead to events or circumstances that would
20 render the preferred resource plan obsolete?

21 A. Yes.

22 Q. Did the ruling in that case lead to events or circumstances that rendered the
23 preferred resource plan obsolete?

1 A. Yes.

2 Q. Did the Company include contingency plans as part of its 2020 Triennial
3 Compliance Filing in the event of an environmental retrofit at Rush Island or the near-term
4 retirement of Rush Island?

5 A. Ameren Missouri included the confidential plans previously mentioned as
6 contingency plans. Ameren Missouri “evaluated several potential options for addressing the
7 need for environmental retrofits. While the need for such retrofits is uncertain, and while the
8 alternative resource plans we have evaluated do not cover all potential outcomes, they do
9 provide some insight into the relative benefits of different approaches to address the potential
10 need.”⁵

11 Q. Once the federal court made its ruling on Rush Island and Ameren Missouri’s
12 preferred resource plan became obsolete, did Ameren Missouri transition to a contingency plan
13 from its 2020 Triennial Compliance Filing that included the near-term retirement of
14 Rush Island?

15 A. No. On December 11, 2021, Ameren Missouri determined that its current
16 preferred resource plan was no longer appropriate. Per 20 CSR 4240-22.080(12), the Company
17 shall notify the Commission within sixty (60) days of the utility’s determination that its
18 preferred resource plan is no longer appropriate. In this case, that would have been February
19 9, 2022. Ameren Missouri stated it was going to be unable to conduct the necessary analysis
20 to select a new preferred resource plan and requested a variance until July 15, 2022, to make its

⁵ *Request for Waiver of 60-Day Requirement and Motion for Protective Order and 2020 IRP Filing*, chapter 10 – strategy selection highly confidential.pdf, pg. 25.

1 filing.⁶ Staff recommended approval of the variance and the Commission issued an order
2 approving it.

3 Q. What is the significance of this?

4 A. The Company knew for several years that there was the potential of an
5 unfavorable court ruling that could lead to severe consequences. For many years, Ameren
6 Missouri did not plan at all for the potential outcome that could include the near-term retirement
7 of Rush Island. Even after it did evaluate plans that included the near-term retirement of
8 Rush Island, and included them as contingency plans if its preferred resource plan at the time
9 became obsolete, it did not choose one of those plans once its preferred resource plan became
10 obsolete. A plan that contemplated a natural gas-fired, combined cycle plant in the near-term
11 or a natural gas-fired, combined cycle plant in the near-term combined with renewable
12 additions, either after or simultaneously, as a contingency plan for the potential near-term
13 retirement of Rush Island may have allowed Ameren Missouri to get ahead of the situation they
14 are currently in. Presumably, more proactive planning for Rush Island and stakeholder
15 discussion on that matter may have allowed for a smoother transition once the federal court
16 ruled.

17 Q. Does this conclude your rebuttal testimony?

18 A. Yes.

⁶ Case No. EE-2022-0192.

Brad J. Fortson

Education and Employment Background

I am the Regulatory Compliance Manager of the Energy Resources Department, Industry Analysis Division of the Missouri Public Service Commission. Prior to my current position, I was employed at the Missouri Public Service Commission as a Regulatory Economist from December 2012 through March 2015 and August 2015 through February 2019.

I received an Associate of Applied Science degree in Computer Science in May 2003, Bachelor of Science degree in Business Administration in May 2009, and Master of Business Administration degree with an emphasis in Management in May 2012, all from Lincoln University, Jefferson City, Missouri.

Prior to first joining the Commission, I worked in various accounting positions within four state agencies of the State of Missouri. I was employed as an Account Clerk II for the Inmate Finance Section of the Missouri Department of Corrections; as an Account Clerk II for the Accounts Payable Section of the Missouri Department of Health and Senior Services; as a Contributions Specialist for the Employer Accounts Section of the Missouri Department of Labor and Industrial Relations; and as an Accountant I for the Payroll Section of the Missouri Office of Administration. From April 1 through July 31, 2015, I worked for the Missouri Office of Public Counsel before joining the Commission once again.

Case Participation History

Case Number	Company	Issue	Exhibit
HR-2014-0066	Veolia Energy Kansas City	Revenue by Class and Rate Design	Staff Report
GR-2014-0086	Summit Natural Gas of Missouri, Inc.	Large Volume Service Revenue	Staff Report
ER-2014-0258	Union Electric Company d/b/a Ameren Missouri	Revenue by Class and Rate Design	Staff Report
ER-2014-0258	Union Electric Company d/b/a Ameren Missouri	Revenue by Class and Rate Design	Staff Report, Rebuttal & Surrebuttal Testimony
ER-2014-0351	The Empire District Electric Company	Revenue by Class and Rate Design	Staff Report & Rebuttal Testimony
ER-2014-0351	The Empire District Electric Company	Revenue by Class and Rate Design	Rebuttal Testimony
EO-2015-0240	Kansas City Power & Light Company	Custom Program Incentive Level	Direct Testimony
EO-2015-0241	KCP&L Greater Missouri Operations Company	Custom Program Incentive Level	Direct Testimony
ER-2016-0023	The Empire District Electric Company	DSM Programs and MEEIA Filings	Staff Report
ER-2016-0023	The Empire District Electric Company	DSM Programs and MEEIA Filings	Staff Report, Rebuttal & Surrebuttal Testimony
EM-2016-0213	The Empire District Electric Company (merger case)	DSM Programs and MEEIA Filings	Rebuttal & Surrebuttal Testimony
ER-2016-0156	KCP&L Greater Missouri Operations Company	MEEIA summary and LED street lighting	Staff Report
EO-2016-0183	Kansas City Power & Light Company	MEEIA prudence review	Staff Report

EO-2016-0223	The Empire District Electric Company	Triennial compliance filing	Staff Report
ER-2016-0285	Kansas City Power & Light Company	LED street lighting	Staff Report
ER-2016-0179	Union Electric Company d/b/a Ameren Missouri	LED street lighting	Staff Report
ER-2016-0285	Kansas City Power & Light Company	Response to Commissioner questions	Staff Report
ER-2016-0179	Union Electric Company d/b/a Ameren Missouri	Response to Commissioner questions	Staff Report
EO-2017-0209	Kansas City Power & Light Company	MEEIA prudence review	Staff Report
EO-2017-0210	KCP&L Greater Missouri Operations Company	MEEIA prudence review	Staff Report
EO-2015-0055	Union Electric Company d/b/a Ameren Missouri	Flex pay pilot program	Rebuttal Testimony
GR-2018-0013	Liberty Utilities (Midstates Natural Gas) Corp. d/b/a Liberty Utilities	Red Tag Program and Energy Efficiency Program Funding	Staff Report, Rebuttal & Surrebuttal Testimony
ER-2018-0145	Kansas City Power & Light Company	LED street lighting, TOU rates	Rebuttal Testimony
ER-2018-0146	KCP&L Greater Missouri Operations Company	LED street lighting, TOU rates	Rebuttal Testimony
EO-2018-0211	Union Electric Company d/b/a Ameren Missouri	Program Design	Rebuttal Report & Surrebuttal Testimony
EO-2019-0132	Kansas City Power & Light Company	Program Design	Rebuttal Report & Surrebuttal Testimony
EO-2019-0376	Union Electric Company d/b/a Ameren Missouri	MEEIA prudence review	Direct Testimony

ER-2019-0374	The Empire District Electric Company	Hedging policy and EE/LI programs	Supplemental Testimony
EO-2020-0280	Evergy Metro	IRP Annual Update	Staff Report
EO-2020-0281	Evergy Missouri West	IRP Annual Update	Staff Report
ER-2020-0311	The Empire District Electric Company	Fuel Adjustment Clause	Rebuttal Testimony
EO-2020-0227	Evergy Metro and Evergy Missouri West	MEEIA prudence review	Direct Testimony
EO-2020-0262	Evergy Metro and Evergy Missouri West	FAC prudence review	Direct & Rebuttal Testimony
EO-2021-0021	Union Electric Company d/b/a Ameren Missouri	Triennial compliance filing	Staff Report
EO-2021-0035	Evergy Metro	Triennial compliance filing	Staff Report
EO-2021-0036	Evergy Missouri West	Triennial compliance filing	Staff Report
EO-2021-0416	Evergy Missouri West	MEEIA prudence review	Staff Report
EO-2021-0417	Evergy Metro	MEEIA prudence review	Staff Report
EO-2022-0061	Evergy Missouri West	Application for Special Rate	Rebuttal Testimony
EO-2022-0064	Evergy Missouri Metro	FAC prudence review	Direct Testimony
EO-2022-0065	Evergy Missouri West	FAC prudence review	Direct Testimony
EO-2022-0040	The Empire District Electric Company	Securitization	Rebuttal Testimony

EF-2022-0155	Evergy Missouri West	Securitization	Rebuttal & Surrebuttal Testimony
ER-2022-0129	Evergy Missouri Metro	FAC	Direct & Surrebuttal Testimony
ER-2022-0130	Evergy Missouri West	FAC	Direct & Surrebuttal Testimony
EA-2022-0245	Union Electric Company d/b/a Ameren Missouri	CCN	Rebuttal Testimony
EA-2022-0328	Evergy Missouri West	CCN	Rebuttal Testimony
EA-2023-0286	Union Electric Company d/b/a Ameren Missouri	CCN	Rebuttal Testimony
ER-2023-0444	Evergy Missouri West	FAC	Rebuttal Testimony
EO-2023-0276	Evergy Missouri Metro	FAC	Rebuttal Testimony
EO-2023-0277	Evergy Missouri West	FAC	Rebuttal Testimony