

**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) Case No. **EF-2024-0021**
Securitized Utility Tariff Bonds for)
Energy Transitions Costs related to)
Rush Island.)

INITIAL BRIEF
OF THE CONSUMERS COUNCIL OF MISSOURI

COMES NOW the Consumers Council of Missouri (“Consumers Council” or “CCM”), and hereby submits its brief on this matter.

Consumers Council urges the Commission to protect residential electric customers of Union Electric Company d/b/a Ameren Missouri (“Company” or “Ameren Missouri”) in this matter by denying the utility’s petition for the issuance of securitized bonds, and thus preventing a non-bypassable charge to be added to future monthly bills, as the Rush Island power plant would no longer be serving the customers who would be forced to pay that charge.

Before a request for securitization can be ordered by the Commission, the law requires the Commission to find that “the imposition and collection of a securitized utility tariff charge are just and reasonable and in the public interest and are expected to provide quantifiable net present value benefits to customers as compared to recovery of the components of securitized utility tariff costs that would

have been incurred absent the issuance of securitized utility tariff bonds.”¹ Consumers Council does not believe that Ameren Missouri’s proposal in this matter is reasonable nor is it in the public interest.

Missouri law, as acknowledged by the Commission in its corrected Amended Report and Order in Case Numbers EO-2022-0040 and EO-2022-0193, establishes that if utility plant is not “used and useful”, the utility is not entitled to a return on such plant.² According to the analysis of the Office of the Public Counsel (Public Counsel), even if the Commission allowed Ameren Missouri to recover a debt return of 4.05% on the Rush Island regulatory asset, such securitization would be more costly than the consumer impact of the established ratemaking principles in Missouri.³

What traditional rate recovery, based upon established ratemaking principles, would allow in this situation depends on the status of the Rush Island plant. If it is a “prudent” investment and it is “used and useful”, Rush Island should be included in rate base and recovered through depreciation expense with an allowed rate of return on the undepreciated balance. If Rush Island is being shut down due to Ameren Missouri’s imprudence or if such power plant is no longer used and useful, traditional recovery constitutes a recovery of the remaining balance through a straight-line amortization with no return on the unamortized balance.⁴

¹ 393.1700.2(3)(c)(b) RSMO.

² OPC witness Murray Rebuttal, p. 3, lns. 8 – 13.

³ OPC witness Murray Surrebuttal, p. 10, lns. 5-12.

⁴ OPC witness Murray Rebuttal, p. 11, ln. 18 – p. 12, ln. 4.

Ameren Missouri announced the closure of the Rush Island Coal Plant in 2021. That decision was made after a federal court determined that the utility had violated the Clean Air Act and was required to install pollution scrubbers as a prerequisite to continued operation of the plant. A review of that federal court case does not lend to support of any finding that the Company has acted prudently in its operation of the Rush Island power plant. The findings of the federal court do not support the claim that a securitization surcharge for the Rush Island power plant would be “just and reasonable and in the public interest”. As such, the relief requested by Ameren Missouri should be rejected by the Commission.

Ameren Missouri did not seek legal advice specific to the 2007 or 2010 Rush Island modifications regarding NSR permits, and, as Judge Sippel stated, “I have already concluded that a reasonable power plant operator would have known that the modifications undertaken at Rush Island Units 1 and 2 would trigger PSD requirements. I have also concluded that Ameren's failure to obtain PSD permits was not reasonable.”⁵ Further, Ameren Missouri did not seek an applicability determination from the EPA for New Source Review (“NSR”) permitting under the Prevention of Significant Deterioration (“PSD”) program. The unreasonable decision of Ameren Missouri to continue running Rush Island after proceeding with the major modification projects for Unit 1 and Unit 2 and without seeking EPA applicability determination is what has caused the Company to prematurely retire the plant.⁶

⁵ United States v. Ameren Mo., 421 F. Supp. 3d 729, 794 (finding of fact no. 393) citing to Ameren Missouri, 229 F.Supp.3d at 915-916, 1010-14.

⁶ Testimony of Public Counsel witness Seaver.

Despite Consumers Council's opposition, if the Commission does determine that the Company's request for securitization charge is to be approved, then the allocation of the revenue requirement associated with the charge should be made in accordance with the recommendations of the Commission's Staff and the Public Counsel. Residential consumers should not be unfairly disadvantaged by an allocation method that shifts such allocation of costs away from energy usage.

On all other issues, Consumers Council supports the positions put forth by the Public Counsel in its brief in this proceeding.

Respectfully submitted,

/s/ John B. Coffman

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all parties listed on the official service list on this 10th day of May, 2024.

/s/ John B. Coffman
