

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

Amended Application of Union Electric Company d/b/a )  
Ameren Missouri for Acceptance of Its Triennial )  
Filing of Cost Estimates for Callaway Energy Center )  
Decommissioning, Including the Independent ) File No. EO-2023-0448  
Spent Fuel Storage Installation, and Approval of the )  
Funding Level of the Nuclear Decommissioning Trust )  
Fund. )

**MOTION FOR LEAVE TO RESPOND TO STAFF RECOMMENDATION AND FOR  
REQUEST FOR HEARING**

COMES NOW Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri" or "Company"), by and through counsel, and hereby moves the Commission for leave to file a response to Staff's recommendation in this matter, and for a schedule of proceedings, including a hearing in this docket, that is limited scope as required under 20 CSR 4240-20.070(9). In support of its request, Ameren Missouri states as follows:

1. On December 1, 2023, Ameren Missouri filed its Triennial Cost Estimates for Callaway Energy Center Decommissioning pursuant to 20 CSR 4240-20.070(4). Consistent with 20 CSR 4240-20.070(4), the Company filed its cost studies detailing the latest cost estimate for decommissioning Callaway at the end of its current license in 2044 along with the funding levels that were computed on levelized basis. The Company requested to continue the funding level set by the Commission and explained that the request is consistent with 20 CSR 4240-20.070 because the amount collected into the trust fund is neither greater nor lesser than the amounts necessary to carry out the purposes of the trust fund.<sup>1</sup>

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<sup>1</sup> Evidence substantiating the Company's position is shown in the Amended Attachment 4, page 14. The graphic shows the average cost remaining for the 33% of scenarios that are underfunded are similar to the average cost remaining for the 33% of scenarios – in surplus order, when there were sufficient funds for decommissioning. These values virtually offset each other and, therefore, support an appropriately funded trust in accordance with 20 CSR 4240-20.070.

2. On February 21, 2024, the Commission directed to Staff to file its recommendation or alternative pleading no later than March 20, 2024. The Commission did not set a date to allow for responses to the Staff recommendation or alternative pleading. The Company filed an Amended Application on March 4, 2024. The Commission granted several motions for an extension of time for Staff to file its recommendation or alternative pleading which allowed Staff to review the Amended Application and allowed the parties to discuss this matter.

3. Staff filed its recommendation on June 3, 2024, as directed by the Commission's Order issued on May 17, 2024. Staff recommended that the Commission approve the Company's Amended Application, as filed on March 4, 2024, subject to two conditions. The two conditions are: (i) Ameren Missouri will file the proper decommissioning trust fund annual contribution, along with evidence and testimony in support thereof, in its next rate case for ratemaking purposes; and (ii) the annual contribution of \$6,758,605 should not be included in the Company's current cost of service for ratemaking purposes.

4. Ameren Missouri respectfully disagrees with Staff's conditions. Ameren Missouri filed the proper funding level for the decommissioning trust fund annual contribution in this docket and provided evidence to support the funding level requested. Staff's recommendation for the Commission to approve the funding level in this docket suggests Staff finds the evidence supports the requested funding level. Staff's conditions requiring the Commission to examine the funding level in the Company's rate case is at odds with the purpose of this docket. Moreover, Staff's recommendations are inconsistent with the Commission's rules governing the triennial filing under 20 CSR 4240-20.70. To the extent Staff takes issue Ameren Missouri's proposed funding level for its tax qualified decommissioning trust fund, the issue should be adjudicated in this docket. 20 CSR 4240-20.70(9) provides:

(9) Upon the filing of the appropriate tariff(s) as set forth in this rule, the commission shall establish a schedule of proceedings which shall be limited in scope to the following issues:

- (A) The extent of any change in the level or annual accrual of funding necessary for the utility's decommissioning trust fund; and
- (B) The changes in rates which would reflect any change in the funding level or accrual rate.

Although the Company is not requesting a change in its tariffs to change the funding level, Staff's recommendation implies that Staff requires further review in the form of testimony and evidence to determine if a change in the funding level is appropriate. If Staff requires additional evidence and testimony supporting the evidence, then the Commission should set a schedule in this docket that is limited in scope under 20 CSR 4240-20.70(9) and direct the parties to file a procedural schedule in this docket.

5. Not only is this approach consistent with the rules, but it is also administratively efficient. The Company filed its support of the funding level and provided Staff responses to discovery and workpapers in this docket. The Company's workpapers provided the populated and updated model used in previous dockets.<sup>2</sup> Staff's approach to evaluate the issues in a rate case unnecessarily complicates the issue before the Commission and broadens the scope of review. Moreover, it prejudices the Company and requires the Company to file the same information in another docket along with new testimony.

6. Staff's conditions also place unnecessary burdens on the Company. Ameren Missouri filed its sixty-day notice to file a general electric rate case on April 26, 2024. The soonest the Company can file its general electric rate case is June 25, 2024. It is burdensome for the Company to stop the preparation for its rate case and then redo all of the hard work to remove the

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<sup>2</sup> See Footnote 4 of the Amended Pleading, which stated "*Ameren Missouri tested the reasonableness of this analysis against the analysis provided in past filings. Please refer to the workpapers for the analysis conducted by the Company.*"

funding level from the revenue requirement. It is unnecessary for the Company to stop all of its work and redo its analysis given the Commission's rules require a limited review in this docket. Staff's recommendation is burdensome and unnecessary.

7. As a practical matter, Ameren Missouri's decommissioning fund is tax qualified and as the Commission rules recognize, the Company is required to apply for an adjusted IRS ruling seeking deductibility of the new annual decommissioning cost accruals consistent with the effective dates given in the order.<sup>3</sup> 20 CSR 4240-20.70(10). The Commission must first examine the record in this case to determine if the funding levels warrant adjustment. To the extent the Commission determines a change in the funding level is reasonable, it is administratively efficient to execute the required IRS tax ruling for deductibility under an order issued in this docket rather than an order issued in a general electric rate case. The timing of any changes to the funding level in this docket allow the Company to seek the needed approvals to ensure the funds remain tax deferred and that the Company does not incur any tax penalties. The Commission is not bound by a statutory deadline in this docket as it is in a rate review. Additionally, the limited scope of this docket allows for flexibility to decide the case before the end of the year, which in turn allows more efficiency in seeking an IRS tax ruling for deductibility to align with the tax year.

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<sup>3</sup> 20 CSR 4240-20.070(10) provided: For a fund intended to be tax qualified, after receipt of any commission order modifying the annual decommissioning funding requirements, the affected utility shall apply for an adjusted IRS ruling in a timely manner, seeking deductibility of the new annual decommissioning cost accruals consistent with the effective dates given in the order. Pending final IRS approval, the utility shall be authorized to continue funding at the level which existed prior to the commission order provided that the utility will take all appropriate action to preserve the tax deduction of the amounts subsequently approved in the IRS ruling. (11) Distributions may be made from a nuclear decommissioning trust fund only to satisfy the liabilities of the utility for nuclear decommissioning costs relating to the nuclear generating unit for which the decommissioning fund was established and to pay administrative costs, income taxes, and other incidental expenses of the trust fund. The utility shall not use proceeds of the trust for the purpose of filing for an updated tax ruling or to qualify the trust.

**WHEREFORE**, Ameren Missouri respectfully requests that the Commission grant its Motion for Leave to Respond to Staff's Recommendation and issue a procedural schedule limited in scope pursuant to 20 CSR 4240-20.70(9).

Respectfully submitted,

/s/ Jennifer S. Moore

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and copy of the foregoing was served via e-mail on counsel for all parties of record this 12<sup>th</sup> day of June, 2024.

*/s/ Jennifer S. Moore*  
Jennifer S. Moore