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

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| 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 Spent Fuel Storage Installation, and Approval of the Funding Level of the Nuclear Decommissioning Trust Fund. | )<br>)<br>)<br>)<br>)<br>)<br>)<br>) | **Case No. EO-2023-0448** |

**AMEREN MISSOURI'S INITIAL BRIEF**

**COMES NOW** Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri" or "Company"), and hereby submits its Initial Brief addressing the issues contained in the List of Issues[1] filed on April 11, 2025:

## I. INTRODUCTION

The Non-Unanimous Stipulation and Agreement ("Stipulation")[2] is reasonable and benefits customers. The Settlement Agreement, if approved by the Commission, resolves all issues between Staff of the Missouri Public Service Commission ("Staff") and Ameren Missouri. The Office of Public Counsel ("OPC") takes exception to two provisions of the Settlement. As explained further below, the record supports the Stipulation and the Commission should adopt the Stipulation in its entirety.

[1] In preparing this list of issues, the parties attempted to obtain consensus on the descriptions of the issues. The parties listed the two contested issues the Office of Public Counsel identified in its opposition to the Settlement. Ameren Missouri, however, notes the Office of Public Counsel did not contest the other provisions of the Non-Unanimous Stipulation and Agreement and the non-contested issues listed below do not reflect all the non-contested issues. Ameren Missouri agreed to include all issues in this list to avoid the need to file multiple lists of issues.
[2] On February 7, 2025, Ameren Missouri and Staff of the Missouri Public Service Commission ("Staff") filed a Non-Unanimous Stipulation and Agreement ("Stipulation"). The Stipulation reduces the customer contribution to zero and outlines parameters for managing the trust

As an administrative matter, there is no dispute that the customer contributions should be reduced to zero. In ER-2024-0319, the Company's most recent electric case, the Company filed compliance tariffs on May 2, 2025. The compliance tariffs reflect zero contributions for the nuclear decommissioning fund, but the customer contribution level must be ordered in this docket before the final tariffs in ER-2024-0319 can reflect the customer contribution level of zero. The Company respectfully requests the Commission issue an order reducing the customer contributions to zero on or before May 14, 2025, or as soon as practical, so that the electric tariffs reflect the change. The Company does not object to the Commission issuing a second order at a later date addressing the two contested items.

The OPC contested two provisions of the Settlement. The record supports the reasonableness of the two contested Settlement items. First, the record reflects the Company relied on an assumption of asset allocation of 65% equities and 35% fixed income as well as the tax implications on those assets in the modeling for the projected balances of the nuclear decommissioning trust. It is reasonable to reflect this fact in the final order and the Commission's orders in the triennial filings have reflected the investment assumptions since 2012 (EO-2012-0070).[3] Additionally, including the investment assumptions in the final order allows transparency on what assumptions were used at the time of each review and reflects the facts in this case. Otherwise, the Commission cannot confirm the funding level set in this docket is based on the parameters and assumptions in the Application and as updated in the Stipulation. As reflected on page 9 of the Amended Attachment 4 to the Application as well as Settlement, the analysis demonstrates the 65% equity and 35% fixed income allocation offers the highest probability of

[3] *See also,* EO-2015-0253, *also approving Investment Guidelines for the Callaway Plant, Order Approving Stipulation and Agreement, Issued April 6, 2016, page 5, paragraph 9;* EO-2018-0051; and EO-2021-0050.

success and is consistent with the Commission's rules, ensuring the nuclear decommissioning fund is adequately funded at the time of decommissioning.

This analysis considered the tax implications associated with rebalancing the assets with an allocation target of 65% equity and 35% fixed income, as the assumptions in the stochastic model. This is a reasonable assumption and supported by the record. The Settlement states the Commission will recognize this assumption and it is also consistent with prior Commission orders.

Second, it is reasonable for the Commission to approve a customer contribution trigger of $50 million deficit in the decommissioning funding before Ameren Missouri can request to resume customer contributions to the fund in the next triennial filing.

The Settlement trigger provision allows the Company the opportunity to request the resumption of customer contributions in a future triennial filing, but prohibits the Company from making a request if the trigger is not met. Any party to that proceeding will be free to contest that request and the Commission is under no obligation to grant it if the facts and circumstances do not support it. The trigger level is merely an acknowledgement that it is reasonable to begin contributions if the nuclear decommissioning fund is underfunded and might result in customers paying higher contributions in the future. If the trigger provision is not met, it is an uncontested issue and customer contributions will remain at zero in the next triennial proceeding. Accordingly, the Commission should adopt the Settlement.

## II. UNCONTESTED ISSUES

1. **The Parties agree the TLG Study is reasonable and the estimated decommissioning costs are $1,097,947,000 (in 2023 Dollars) for Callaway Unit 1 nuclear generating unit and Independent Spent Fuel Storage Installation for the end of Ameren Missouri's current Callaway Unit 1 NRC license of October 18, 2044.**

The decommissioning cost estimates in 2023 dollars was provided in Attachment 3 of Application and as incorporated to the Stipulation, prepared by TLG and titled *Decommissioning Cost Analysis for the Callaway Energy Center*. The estimated costs in Attachment 3 are reasonable and should be approved by the Commission. The Stipulation requests the Commission enter the 2023 Cost Study into evidence and that the Commission find that Ameren Missouri's Application and 2023 Cost Study meet the requirements of 20 CSR 4240-20.070(4). The 2023 Study estimates the decommissioning cost for the DECON[4] alternative to be $1,097,947,000 (in 2023 Dollars) for the decommissioning period, which is 3.834% higher than the 2020 estimate of $1,046,835,000 (in 2020 Dollars) for the same decommissioning period.

The cost estimate in Attachment 3 is comprehensive in that it covers both the Plant and the Independent Spent Fuel Storage Installation ("ISFSI") decommissioning, segregating the costs for each type of decommissioning obligation. TLG estimated the total cost to decommission Plant and the ISFSI, employing the DECON alternative, as $1,097,947,000 in 2023 dollars. Of this total, $1,085,651,000 is attributable to Plant decommissioning and $12,296,000 is attributable to ISFSI decommissioning.[5]

[4] DECON assumes decontaminating and decommissioning immediately following conclusion of power operations in 2044, when the 60-year operating license expires. Work is anticipated to be completed by 2053. DECON consists of removal of fuel assemblies, source material, radioactive fission and corrosion products, and other radioactive materials immediately after cessation of power operations.

[5] The estimate is based on an assumed 60-year plant operating life, and reflects the use of off-site, low-level radioactive waste processing to minimize the volume designated for controlled disposal.

The Stipulation[6] notes that the total Plant and ISFSI decommissioning costs estimated in 2024 dollars is $1,162,825,986.[7] It is important that the date of the nuclear decommissioning fund balance is tied to an updated decommissioning cost estimate. Consequently, if the Commission uses the 2024 year-end balance of the nuclear decommissioning trust fund, the Commission must also use an updated decommissioning cost estimate to match the dollars in the same year when comparing the actual fund balance with an estimated cost.

There is no factual dispute regarding the decommissioning cost estimate and Ameren Missouri respectfully requests Commission enter the 2023 Cost Study into evidence, and that the Commission find that Ameren Missouri's Application and 2023 Cost Study meet the requirements of 20 CSR 4240-20.070(4).

2. **The Parties agree zero is the appropriate current annual contribution for the nuclear decommissioning fund to have neither greater nor lesser than the amount necessary to carry out the decommissioning of Callaway Unit 1 and the Independent Spent Fuel Storage Installation at the end of the NRC Callaway Unit 1 license life—presently October 18, 2044.**

The Stipulation is reasonable and should be adopted by the Commission. The Stipulation requests the Commission reduce the amount of customer contributions to zero.[8] OPC does not oppose the reduction of customer contributions to zero. The requested funding level is based on the parameters and assumptions as set forth in the Amended Application and the updates in the Stipulation.

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[6] Stipulation at page 11, paragraphs 2 and 3, *see also* Danel E. Deschler's Direct Testimony at p. 5, ll. 12-22 and p. 6, ll. 1-8.

[7] The figure was derived by applying an assumed 4.70% rate of inflation to the total Plant decommissioning cost in 2023 dollars.

[8] Please note that the analysis contained in Amended Attachment 4 requests neither an increase nor a decrease to the aggregate funding amount for the consolidated Plant and ISFSI decommissioning. The ISFSI decommissioning fund assets are lower than the estimated costs to conduct the ISFSI decommissioning.

Pursuant to the Stipulation and Agreement in File No. ER-2024-0319, the Company reduced the amount of customer contributions in its compliance tariffs which were filed on May 2, 2025. Ameren Missouri respectfully requests a determination on this issue in this docket as soon as practical or by May 14, 2025, so that the electric tariffs can properly reflect the reduced contributions.

## III. CONTESTED ISSUES

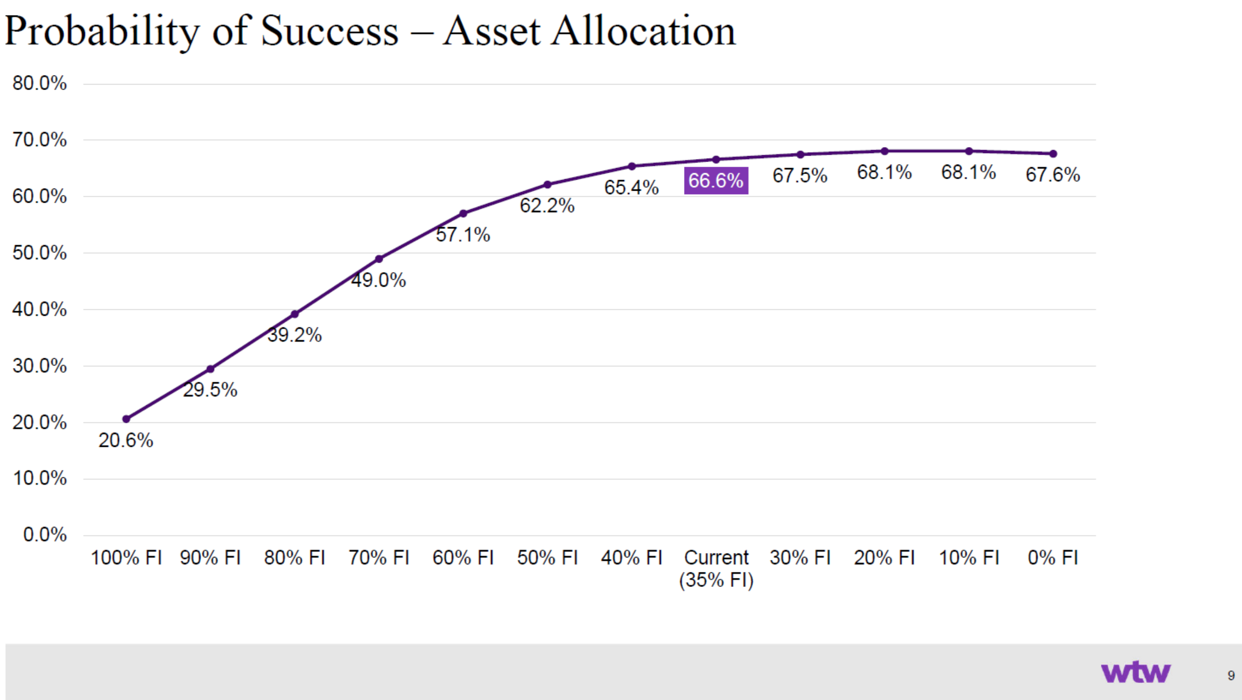
**1. It is reasonable for the trustee to continue to maintain a trust fund asset allocation of 65% equities and 35% bonds when the trust balance is currently sufficient to cover the estimated decommissioning costs in the most recent triennial filing.**

It is reasonable for the trustee to continue to maintain an asset allocation of 65% equities and 35% fixed income. Tr. at p.39, ll. 20-25 through p. 41, ll. 1-16. The record supports the allocation and is consistent with the Commission's rules and past orders.[9] Amended Attachment 4 of the Amended Application, and included as part of the Stipulation, indicates the assumption of asset allocation of 65% equities and 35% fixed income as well as the tax implications in the modeling for the projected balances of the nuclear decommissioning trust. *See* Amended Attachment 4 at pages 5 and 9. Specifically, on page 9 of the Amended Attachment 4, the analysis demonstrates the 65% equity and 35% fixed income allocation offers the highest probability of success within the Commission's rules to ensure the nuclear decommissioning fund is adequately funded.

The evidence also shows that if you reduce the amount of equities and increase the fixed income, it is less likely that the nuclear decommissioning trust will have sufficient funds at the time of decommissioning. OPC's proposal to increase the level of fixed income is shown to decrease the likelihood there will be sufficient funds at the time of decommissioning. For example,

[9] *See,* EO-2012-0070; EO-2015-0253; EO-2018-0051; and EO-2021-0050.

as shown on the chart below, increasing fixed income to 70% of the allocation will reduce the probability of meeting the decommissioning costs less likely at 49.0%.[10]




**Amended Attachment 4**

Consequently, it is reasonable for the Commission to approve the actuarial assumptions used in Amended Attachment 4, which is the asset allocation of 65% equities and 35% bonds for the market value of the trust fund to be maintained until such time as the fund will begin to de-risk.

[10] *See* Amended Attachment 4 at page 9.

In contrast, OPC admitted on the record that it did not make a recommendation and that there is not enough evidence in the record to make a specific portfolio recommendation. Specifically, OPC stated on redirect:

> Q. And there's a lot of discussion about the 65/35 equity bond asset allocation. Why -- would you explain why you did not propose any particular asset allocation as opposed to that 65/35?
>
> **A. Again, I just -- I'm just recommending that there should be some more comprehensive evaluation of -- of what's appropriate once the decommissioning trust fund achieves the goal of being fully funded. And my recommendation in my testimony was that it should be evaluated for -- for derisking. I didn't have a specific, you know, portfolio recommendation.**
>
> Q. Well, in your opinion, is there enough· evidence in the record before the Commission for it to do that?
>
> **A. No.**
>
> Tr. at p. 70, ll. 22-25 through p.71, ll. 1-11.

OPC admits it did not provide any analysis of how a different allocation of the funds would preserve the balance and still maintain sufficient funds to meet the estimated decommissioning costs in 2044. Moreover, OPC does not refute the findings in the chart in the amended Attachment 4 or provide its own analysis showing how adjusting the allocation will impact the fund balance. Therefore, OPC cannot support its assertion that "the fund should be managed to preserve the capital in the fund by reducing the asset allocation to equities." Public Counsel's Objection to Settlement at Para. 7. OPC offered no evidence that the capital in the fund would not be preserved and the analysis performed by Willis Towers Watson in the Amended Attachment 4 shows that reducing the asset allocation to fixed income lessens the probability that the fund will meet the decommissioning needs in the future.

Additionally, in response to the Chair's questions, OPC witness Murray admitted that he was not an investment manager or a portfolio manager. Tr. at p. 63, l. 25 through p. 64 at l. 1.

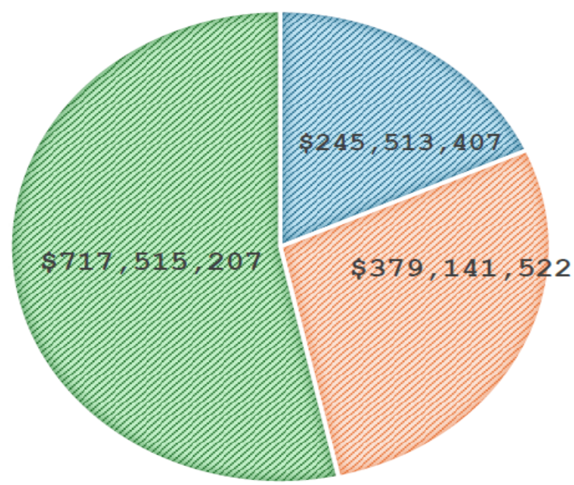
Specifically, Chair Hahn asked:

> Q. Thank you, Mr. Murray. Appreciate that. One other thing. Tell me why you didn't make a recommendation other than 65/35 because for the Commission to order something less, it seems odd that we wouldn't have a recommendation based on some modeling. So can you walk me through that?
>
> **A. I'll be quite honest. I'm not an investment manager. I'm not a portfolio manager. I -- I don't -- I have my opinions, but it needs to be carefully thought out. I think -- I think the rule, when it was created, anticipated a 40-year license. So the termination would be in 2024. I don't think the rule anticipated continued extensions, and what do we do if we get the full funded status 20 years before the license, you know, the extension. I don't think the rule anticipated that. And, so whenever it says 65/35 maximize, you know, get the -- maximize returns, but preserve principal, that's when you're growing in the fund. I -- at this point you just need to preserve the purchasing power of the fund.**
>
> **And, so my point to -- to that is, is, you know, while there are considerations that should be made and potential derisking and not causing a capital loss, because if you're -- right now we're about 100 -- well, as of December 31st, 2024, you're 100 million over funded. Today, we have 20 years left. Why wouldn't you be taking -- you know, considering right now ways to preserve that capital and at least maintain the decommissioning cost inflation rate which in that -- that's another thing that I try to emphasize is very important, that decommissioning cost inflation rate that's assumed, really, drives what the required return is going to be for the next 20 years. I've seen -- you know, there's estimates as low as, you know, 3 to 3.3 percent with the Wolf Creek decommissioning trust fund, and then for purposes of Ameren Missouri in the Callaway plant, you know, they -- there's a decommissioning cost inflation assumption of 4.7 percent. I have never seen it that high and -- and, so that drives what the required return is going to be. And, so if you -- that makes a big difference of compounding over the next 20 years. So, yes. That's a -- that should be something that is -- I believe there's a nuclear trust fund committee. I know there was with Wolf Creek.· I'm trying to remember with Ameren as far as monitoring the status of the fund.· But, yeah.· I have no problem with them working with Willis Towers Watson and say, if we want to make sure we don't have capital losses and just -- just capture enough return to meet the decommissioning cost inflation a reasonable decommissioning cost inflation rate, you know, what's· the best way to do that?**

Tr. at p. 63 ll. 19-24 through p. 65, l. 21.

OPC recognizes it is not the expert and did not present any evidence that the nuclear decommissioning fund has experienced any asset loss. As of December 31, 2024, the customer contributions have produced approximately $380,000,000 in realized gains and $718,000,000 in unrealized gains. See Exhibit 1. The Commission should reject OPC's recommendation.

**DECEMBER 2024 ASSET MIX**




Thru December 31, 2024

| | |
|---|---|
| Customer Contributions | $ 245,513,407 |
| Realized Gains | $ 379,141,522 |
| Unrealized Gains/Losses | $ 717,515,207 |
| Total | $ 1,342,170,136 |

Exhibit 1, page 2.

OPC's recommendation for the Commission to not recognize the actuarial assumption in its order is unreasonable because it does not acknowledge the investment goals or the tax implications from selling equities to rebalance the portfolio of the nuclear decommissioning trust.

Furthermore, acknowledging the investment goal to keep the allocation at 65% equities and 35% fixed income allows the Commission to effectively track information on how the funds are managed.

OPC also did not analyze the tax implications from reallocating the fund today. Reallocating the fund requires selling equities to acquire fixed income assets and with the sale, the nuclear decommissioning fund will incur taxes based on any of the unrealized gains. Daniel E. Deschler's Surrebuttal Testimony at pages 14-15. It is unknown how much the fund balance would be reduced and whether that balance would be sufficient to meet the decommissioning costs.

In contrast, Ameren Missouri's consultant evaluated the tax implications associated with rebalancing the assets with an allocation target of 65% equity and 35% fixed income as the assumptions in the stochastic model. Amended Attachment 4 at pages 5 and 9; Deschler Surrebuttal Testimony at 14. Ameren Missouri presented analysis showing the 65% equity and 35% fixed income asset allocation offers the highest probability of success to adequately fund the trust to meet the decommissioning obligations. *See* Amended Attachment 4 at page 9; Deschler Surrebuttal Testimony at 14-15.

Additionally, it is reasonable for the Commission to include the asset allocation as part of the Commission's order to memorialize the investment goals for the nuclear decommissioning trust. The information allows the Commission to record investment goals and track progress in subsequent reviews. This allocation also ensures the trustee is managing the funds consistent with the Commission's rules. As OPC points out, rule 20 CSR 4240-20.070(5)(E)3 provides that "[t]he trustee or investment manager(s) shall invest the tax-qualified trust assets and non-tax-qualified trust assets only in assets that are prudent investments for assets held in trust and **in a manner designed to maximize the after-tax return on funds invested**, consistent with the conservation of the principal, subject to the limitations specified as follows: … 3. A utility's total book value of investments in equity securities in all of its decommissioning trusts shall not exceed sixty-five percent (65%) of the trust funds' book value." 20 CSR 4240-20.070(5)(E)3, *emphasis added* and cited in Public Counsel's Objection to Settlement, paragraph 6.

OPC's proposal is unreasonable because it does not acknowledge that to maximize the after-tax return, it is better to hold on to securities and allow the securities to grow rather than incur taxes on the unrealized gain and realize capital losses through taxes. *See* Exhibit 1, page 3. Furthermore, acknowledging the investment goal to keep the allocation at 65% equities and 35% fixed income allows the Commission to effectively track information on how the funds are managed.[11] Including the information in the order also denotes the assumptions used to set the funding level at zero. Consequently, the Commission should approve the Stipulation.

**2. It is reasonable for the Commission to approve a customer contribution cost trigger of $50 million before the company can request to resume customer contributions to the fund in a future triennial filing.**

It is reasonable for the Commission to approve a customer contribution cost trigger of $50 million before Ameren Missouri can request to resume customer contributions to the fund in the next triennial filing.

The requested trigger benefits customers in that it allows the Company the opportunity to request the resumption of customer contributions in a future triennial filing only if there is a $50 million deficit between the estimated decommissioning costs and the net value of the nuclear decommissioning fund. The Company, however, cannot request to reinstate the customer contributions if the deficit is under $50 million dollars. This retains the customer benefit of not

[11] *See,* EO-2012-0070; EO-2015-0253; EO-2018-0051; and EO-2021-0050.

paying into the nuclear decommissioning trust while acknowledging that a deficit should not become too large where future customers could contribute more.

Moreover, a party to that proceeding will be free to contest that request, and the Commission is under no obligation to grant it if the facts and circumstances do not support it. The trigger level is merely an acknowledgement that it is unreasonable to not to begin contributions if the nuclear decommissioning fund is underfunded and might result in customers paying higher contributions in the future. Additionally, customers benefit because if there is a deficit under $50 million dollars, then the customers still do not contribute to the fund.

**WHEREFORE**, for the reasons supported above, Ameren Missouri respectfully requests the Missouri Public Service Commission approve the Non-Unanimous Stipulation and Agreement and the Commission issue an Order:

1. Approving this Non-Unanimous Stipulation and Agreement;

2. Receiving into evidence this Non-Unanimous Stipulation and Agreement; Attachment 3 to Ameren Missouri's *Amended Application*, TLG's "*Decommissioning Cost Analysis for the Callaway Energy Center*" (2023 Study), dated September 2023; and Amended Attachment 4 to Ameren Missouri's *Amended Application*, Ameren Missouri's funding adequacy analysis calculating the required annual funding levels for Plant and ISFSI decommissioning, assuming a decommissioning cost escalation rate of 4.7%; and the Nuclear Decommissioning Report filed pursuant to 20 CSR 4240-23.020(3) in File No. EO-2025-0122;

3. Finding that Ameren Missouri's Application and the 2023 Study satisfy the requirements of 20 CSR 4240-20.070(4) (2019);

4. Finding that the Company's Missouri retail jurisdictional annual decommissioning expense accruals and trust fund payments shall be suspended as shown in the compliance tariffs in File No. ER-2024-0319;

5. Finding, in order for the decommissioning fund to continue to utilize the external sinking fund method of decommissioning funding, that the current decommissioning costs for the Plant and ISFSI are in Ameren Missouri's current Missouri retail cost of service and are reflected in its current retail rates for ratemaking purposes;

6. Approving, pursuant to 20 CSR 4240-20.070(5)(C) (2019), the use of a jurisdictional demand allocator of 100.00%;

7. Acknowledging that the annual decommissioning expense and contribution amount proposed in this *Stipulation* is based on Attachment 3, the September 2023 *Decommissioning Cost Analysis for the Callaway Energy Center* and the Nuclear Decommissioning Report filed pursuant to 20 CSR 4240-23.020(3) in File No. EO-2025-0122.

8. Approving the actuarial assumptions used in Amended Attachment 4 to Ameren Missouri's *Application*, the Nuclear Decommissioning Report filed pursuant to 20 CSR 4240-23.020(3) in File No. EO-2025-0122, Ameren Missouri's funding adequacy analysis calculating the required annual funding levels for the Plant and ISFSI decommissioning, specifically:

- The after-tax value of Missouri jurisdictional sub-account of the Plant Tax-Qualified Nuclear Decommissioning Trust Fund as of June 30, 2023, was $969,908,000 and the after-tax value of Missouri jurisdictional sub-account of the Plant Tax-Qualified Nuclear Decommissioning Trust Fund as of December 31, 2024, was $1,198,667,094.

- The Plant decommissioning cost estimate is $1,085,651,000 and the ISFSI decommissioning cost estimate is $12,296,000, both in terms of 2023 dollars and the total Plant decommissioning cost estimated in terms of 2024 dollars is $1,162,825,986.[12]
- Operating license expiration date of October 18, 2044.
- The Missouri jurisdictional allocator (for both Plant and ISFSI) is 100%.
- The federal income tax rate is 20%.
- The state income tax rate is 0%.
- The composite federal & state income tax rate is 20%.
- An asset allocation of 65% equities and 35% bonds for the market value of the trust fund will be maintained until such time as the fund will begin to de-risk.
- Investment management and trust fees are estimated at 15 basis points annually.
- A long-term annualized inflation rate range of 0.5 to 4.5% is assumed for general (CPI) inflation for the period through 2052.
- The long term annualized pre-tax & expense nominal return on bonds ranged from 2.7% to 5.9% for the period through 2052.
- The long term annualized pre-tax & expense nominal return on equities ranged from .4% to 12.9% for the period through 2052.

[12] The figure was derived by applying an assumed 4.70% rate of inflation to the total Plant decommissioning cost in 2023 dollars.

- The long term annualized pre-tax & expense nominal weighted-average return ranged from 2.1% to 9.9% for the period through 2052.
- Long term decommissioning cost escalation ranged from 2.2% to 6.2% for the period through 2052.

9. Recognizing that the Company shall request reinstating the customer contributions to the fund if the trust fund is estimated to be underfunded by an amount greater than $50 million at the time of the next triennial filing.

10. Recognizing that ISFSI funds recovered from the DOE will be used to reduce plant-in-service and depreciation reserve balances by the amount of the proceeds until the costs of the re-racking project and dry cask storage construction project are covered. Any ISFSI funds recovered from the DOE in excess of the re-racking project and dry cask storage construction project costs will be used to offset the decommissioning costs of the Plant and ISFSI.

11. Recognizing that, pursuant to 20 CSR 4240-20.070(16) (2016), upon termination of the trust, excess trust funds from the costs of decommissioning the Plant and ISFSI are to be refunded or credited to customers through the ratemaking process.

Respectfully Submitted,

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing was served on the service list via electronic mail (e-mail) on this 7th of May 2025.

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