

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

In the Matter of the Application of Union Electric       )  
Company d/b/a Ameren Missouri for Permission       )  
and Approval and a Certificate of Public       )  
Convenience and Necessity Authorizing it to       )  
Construct, Install, Own, Operate, Maintain and       )  
Otherwise Control and Manage a Utility Waste       )  
Landfill and Related Facilities at its Labadie Energy       )  
Center.

**Case No. EA-2012-0281**

**STAFF'S POSITIONS ON LISTED ISSUES**

**COMES NOW** the Staff of the Public Service Commission of Missouri and states  
its positions on the listed issues as follows:

**1.     *Does the evidence establish that the utility waste landfill for which  
Ameren Missouri is seeking a certificate of convenience and necessity ("CCN") is  
necessary or convenient for the public service?***

**Staff's position:** The evidence in this case will be that granting Ameren Missouri a  
certificate of convenience and necessity for a utility waste landfill on the 813 acres of  
land described by metes and bounds in Exhibit A attached to Ameren Missouri's  
application in this case that adjoins and expands its existing Labadie Energy Center site  
is necessary and convenient for the public service.

When first addressing certificates of convenience and necessity, the Missouri  
Supreme Court said:

A reasonable construction of the Public Service Commission Act forces  
the conclusion that it was the intention of the Legislature to clothe the  
commission with exclusive authority to determine whether or not the  
furnishing of electricity to a given town or community is a public necessity  
or necessary for public convenience, and, if so, to prescribe safe, efficient,  
and adequate property, equipment, and appliances in order to furnish  
adequate service at reasonable rates and at the same time safeguard the

lives and property of the general public, those using the electricity, and those engaged in the manufacture and distribution thereof.

If, as appellant contends, an electrical corporation which has a certificate of convenience and necessity to operate its plant in a given town or community might extend its lines to and furnish other communities with electricity without a certificate or authority from the commission, the purpose of the statute would be defeated. Under such a construction of the statute the commission would have no opportunity to determine whether or not public convenience and necessity demanded the use of electricity in the community to which the line was extended, and no opportunity to prescribe the safe and efficient construction of said extension or determine whether or not appellant was financially able to construct, equip, and operate such extension and furnish adequate service at reasonable rates in the new community, without crippling the service in the community where the commission had theretofore authorized it to operate.

*Public Service Commission v. Kansas City Power & Light Company*, 325 Mo. 1217, 1225; 31 S.W.2d 67, 70 (Mo. Banc 1930). In more recent cases, the Missouri courts have said with regard to certificates of convenience and necessity that “[t]he term ‘necessity’ does not mean ‘essential’ or ‘absolutely indispensable,’ but that an additional service would be an improvement justifying its cost.” *State ex rel. Intercon Gas, Inc. v. Public Service Commission*, 848 S.W.2d 593 (Mo. App. 1993) citing *State ex rel. Beaufort Transfer Co. v. Clark*, 504 S.W.2d , 216, 219 (Mo. App. 1973). In evaluating applications for certificates of convenience and necessity the Commission has relied numerous times on the five factors it listed in the case *In Re Tartan Energy*, GA-94-127, 3 Mo.P.S.C.3d 173, 177 (1994), for deciding whether to grant a certificate of convenience and necessity. Those five factors are:

- Whether there is a need for the facilities and service;
- Whether the applicant is qualified to own, operate, control and manage the facilities and provide the service;
- Whether the applicant has the financial ability for the undertaking;
- Whether the proposal is economically feasible; and
- Whether the facilities and service promote the public interest.

Because the Missouri legislature has charged the Missouri Department of Natural Resources—a sister state agency—with regulation of the construction and operation of utility waste landfills in Missouri, the Commission should not encroach upon or usurp that agency’s authority to determine the suitability of the site for constructing a utility waste landfill and whether Ameren Missouri is qualified to construct, own, operate, control and manage the proposed utility waste landfill.

As long as the Labadie Energy Center is burning coal it will create coal combustion products, which, if disposed of within Missouri, must be deposited at existing sites or in Missouri Department of Natural Resources permitted solid waste disposal facilities or areas. §§ 260.200-345, RSMo., in particular §§ 260.210 and 260.205. The benefit of shutting the Labadie Energy Center down to avoid having to dispose of carbon combustion products is far outweighed by the value of the low cost electricity it generates—only Ameren Missouri’s nuclear (Callaway Energy Center) and hydro centers (Keokuk and Osage Energy Centers) are lower cost—and its contribution to Ameren Missouri’s total system generating capacity—about 2.4 of 10.5 GW (about 23%). Because the farther coal combustion products are transported, the more it costs

to transport them, from a utility operations cost standpoint, the closer the landfill is to the generating unit, the better.

Ameren Missouri's analysis demonstrates the proposed utility waste landfill is economically feasible. Ameren Missouri already owns the land where the utility waste landfill will be built, and has installed monitoring wells there. During calendar year 2013 Ameren Missouri had approximately \$3.5 billion in operating revenues, \$803 million in operating income and \$395 million in net income from its electric and gas operations. Although the Commission recently authorized Ameren Missouri to incur loans up to \$800,000,000 under an extended 2012 Missouri Credit Agreement in order to ensure short-term liquidity and meet short-term funding requirements under all reasonably foreseeable operating conditions

(February 19, 2014, *Order Granting Application*, Case No. EF-2014-0094) and to issue and sell in the aggregate of up to \$350 million in new long term debt (March 19, 2014, *Order Granting Authority to Issue and Sell Additional Long-Term Indebtedness*, Case No. EF-2014-0227), Ameren Missouri plans to fund the construction of the utility waste landfill with existing funds in its treasury. Ameren Missouri has the financial ability to construct and operate the utility waste landfill.

**2.     *If the Commission decides to grant the CCN, what conditions, if any, should the Commission impose?***

**Staff's position:** It should be conditioned on Ameren Missouri having obtained permits from the Missouri Department of Natural Resources for both utility waste landfill construction and land disturbance **before** Ameren Missouri has the full authority the Commission grants it with the CCN. Staff recommends that the Commission state in

any order granting the requested CCN that the grant of the CCN does not predetermine ratemaking treatment of the costs associated with the utility waste landfill.

Respectfully submitted in response to the Commission's January 9, 2014  
***Order Revising Procedural Schedule,***

**/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 21<sup>st</sup> day of March, 2014.

**/s/ Nathan Williams**