

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

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	)	
In the Matter of the Application of	)	
Union Electric Company d/b/a Ameren	)	Case No. ET-2025-0184
Missouri for Approval of New Modified	)	
Tariffs for Service to Large Load	)	
Customers	)	
	)	

POSITION STATEMENTS

COMES NOW the Office of the Public Counsel (“OPC”) and for its *Position Statements*, states as follows:

The Commission issued an *Order Establishing Procedural Schedule* in the above referenced case on July 10, 2025. Contained in that *Order* was a procedural requirement that “[e]ach party shall file a simple and concise statement summarizing its position on each disputed issue, including citations to pre-filed testimony supporting its position.” Pursuant to that ordered procedural schedule, the OPC files this statement of its position on all issues identified in the filed list of issues.

Issue A: Should the Commission adopt Ameren Missouri’s or Staff’s conceptual tariff, rate structure, and pricing in order to comply with Mo. Rev. Stat. Section 393.130.7?

Position: The OPC generally supports the conceptual tariff, rate structure, and pricing developed by the Commission’s Staff except where otherwise stated herein.

Issue B: Should Large Load Customer Electric Service (“LLCS”) be a subclass of the LPS or a stand-alone class?

Position: “[T]he Commission should order the creation of a new service classification

□ because of how different these customers are from the existing LPS customers.”¹

Staff’s recommended designation of LLCS customers of at least 25 MW would, at a minimum, be at least five times greater than this minimum requirement for LPS customers. Ameren Missouri’s recommendation that a customer with a demand of greater than 100 MW be classified as LLCS is 20 times greater than the minimum to be served on the LPS rate. Expectations are that a LLCS customer could have a demand of 500 MW or 1,000 MW which is 100 and 200 times greater than the minimum load of a LPS customer.²

“In addition, the service characteristics and billing challenges of LLCS customers are different enough from the LPS Service class to require legislation and therefore should have a distinct tariff service classification.”³

Issue C: What should be the threshold demand load in megawatts (“MW”)/criteria for LLCS customers to receive service under a Commission approved LLPS tariff?

Position: The threshold demand load in megawatts should be 25 MW.⁴ This threshold is “an industry standard demarcation for customers that must practically be served at transmission voltage[,]” “consistent with trends that [have been] observed in utility infrastructure[,]” and “is also generally consistent with the demand of a customer for whom a utility would seek a special contract or develop a tariff with that particular

¹ *Surrebuttal Testimony of Lena M. Mantle*, pg. 3 lns. 23 – 24.

² *Id.* at pg. 4 lns. 11 – 17.

³ *Id.* at lns. 18 – 20.

⁴ *Surrebuttal Testimony of Geoff Marke*, pg. 35 lns. 19 – 21; pg. 44 lns. 1 – 2.

customer in mind.⁵ In addition, this 25 MW threshold should be calculated to include multiple sites being operated on an aggregated basis.⁶ Further, this LLPS tariff sheet should only apply to facilities operating as “data centers.”⁷

Issue C(a): To the extent the threshold captures existing customers, should a grandfathering provision for such customer be adopted?

Position: The OPC takes no position on this issue at this time but reserves the right to address this issue in briefing as needed.

Issue D: What other existing programs and riders should or should not be available to LLCS customers, if any?

Position: “[T]he Commission should order that LLCS customers not be eligible for the LPS Optional Time-of-Day Adjustment, Charge Ahead programs, Rider B (discounts for customer-owned substations), Rider D (temporary service), Rider E (supplementary service), Rider F (shut-down service), the Renewable Solutions Program, the Economic Development Incentive, the Economic Development and Retention Rider, the Economic Re-Development Rider, the Community Solar Program, the Standby Service Rider, or the Renewable Choice Program” and any other rider addressed elsewhere in this position statement.⁸ LLCS customers should further “not be eligible for participation in any compensated demand response or

⁵ *Staff Recommendation / Rebuttal*, pg. 42 lns. 2 – 5.

⁶ *Id.* at pg. 44 lns. 1 – 2.

⁷ *Id.* at pg. 35 lns. 19 – 21; pg. 43 ln. 26.

⁸ *Id.* at pg. 30 lns. 9 – 17.

curtailment programs,” except for the “Optional Agreement for Payment of Actual MISO Charges” suggested by the Commission’s Staff.⁹

Issue E: Should the [LLCS] customer bear responsibility for its interconnection and related non-FERC transmission infrastructure costs?

Position: Yes. “LLCS customers should pay entirely, in advance, for interconnection facilities, as well as upstream transmission upgrades that may be required.”¹⁰

Issue E(a): How should such interconnection and related non-FERC transmission infrastructure costs be accounted for or tracked, if at all?

Position: The Commission should order the recommendations made by its Staff.¹¹ The Commission should further “order Ameren Missouri to create subaccounts for each set of interconnection infrastructure associated with each customer interconnecting at transmission voltage.”¹²

Issue F: What minimum term of service should be required for an LLCS customer to receive service under the Commission approved LLCS tariffs?

Position: 20 years.¹³ “This recommendation is consistent with what the Kentucky Public Service Commission approved in Kentucky Power’s large load tariff.”¹⁴ In addition, the tariff should “[r]equire 42 months’ advance notice for contract

⁹ *Id.*

¹⁰ *Staff Recommendation / Rebuttal*, pg. 28 lns. 16 – 17.

¹¹ *Id.* at pg. 62 ln. 31 – pg. 63 ln. 29.

¹² *Id.* at pg. 96 lns. 4 – 6.

¹³ *Rebuttal Testimony of Geoff Marke*, pg. 27 lns. 13 – 15.

¹⁴ *Id.*

termination or end-of-term changes and apply penalties for failing to provide advance notice.”¹⁵

Issue F(a): What is the minimum and maximum ramp schedule?

Position: The tariff should allow up to a 5-year ramp.¹⁶

Issue F(b): What is the minimum term after the maximum ramp period ends?

Position: 15 years, making up the 20 year total from Issue F.¹⁷

Issue F(c): Is Elective Termination permitted? If so, then what is the appropriate Termination Fee?

Position: Yes, elective termination should be permitted. The termination fee should be consistent with what was proposed by Ameren, but be expanded “to include the infrastructure portion of the customer charge” and extended through “the end of the contract term.”¹⁸

Issue G: What minimum demand terms and conditions should apply to LLCS customers?

Position: The LLCS tariff schedule should impose a minimum level of demand charges to be reflected on each LLCS customer’s bill equal to 90% of the contracted capacity.¹⁹ This is again consistent with what the Kentucky Public Service Commission approved in Kentucky Power’s large load tariff.²⁰

¹⁵ *Surrebuttal Testimony of Geoff Marke*, pg. 36 lns. 22 - 23.

¹⁶ *Id.* at lns. 1 – 5.

¹⁷ *Id.*

¹⁸ *Id.* at lns. 13 – 21.

¹⁹ *Rebuttal Testimony of Geoff Marke*, pg. 28 lns. 4 – 9.

²⁰ *Id.*

Issue G(a): What Maximum LLC Capacity reduction should be allowed?

Position: No reduction should be allowed. As explained by Staff witness J Luebbert,

[T]he amount of new demand from LLCS customers will be a large percentage of Ameren Missouri's total demand for MISO resource adequacy purposes if Ameren Missouri's total pipeline of customers comes to fruition. If industry changes, either through market functions or efficiencies in usage, drive massive reductions in necessary demand, there is a very real risk that Ameren Missouri will have overbuilt capacity necessary to serve the load of its customers and will be forced to find alternative ways to provide offsetting revenues. If those offsetting revenues do not cover the cost of the already built capacity, all other ratepayers will be worse off by paying for that capacity through increased rates. That is not a risk that Staff, nor the Commission, should take lightly. However, from an investor-owned utility point of view, once those capacity resources are deemed prudent and included in rates, shareholders will expect recovery of, and a return on, that investment regardless of the customer base paying for the resources.²¹

The Commission should impose the same "Take or Pay" provision that would have required 100% payment of every charge for the State of Missouri's only historic large load customer, Noranda.²²

Issue G(b): Under what terms should a capacity reduction be allowed? How much should the capacity be in terms of percentage of the original Maximum LLC Capacity?

Position: No reduction should be allowed, see above.

Issue G(c): Under what terms should a subsequent contract reduction occur?

Position: No reduction should be allowed, see above.

²¹ *Surrebuttal Testimony of J Luebbert*, pg. 11 ln. 18 – pg. 12 ln. 5.

²² *Surrebuttal Testimony of Sarah Lange*, pg. 14 lns. 3 – 8; pg. 36, ln. 25 – pg. 38, ln. 10; pg. 47, lns. 12-14

Issue G(d): How should the Capacity Reduction Fee be determined?

Position: No reduction should be allowed, see above.

Issue H: What collateral or other security requirements should be required for a LLCS customer to receive service under the Commission approved LLCS tariffs?

Position: The Commission should require “a cash collateral requirement equal to two years of minimum monthly bills.”²³ These collateral requirements should not be waived for higher creditworthiness because of “the volatile nature of the business as a whole and the probability of future stranded assets.”²⁴

Issue I: What should the notice requirements be, if any, for extension of service beyond the initial minimum term?

Position: 36 months prior to expiration of the existing term.²⁵

Issue J: Should LLCS customers be included in the Fuel Adjustment Clause (“FAC”)?

Position: No.²⁶

Issue J(a): What impact will the inclusion of LLCS customers in the FAC have on non-LLCS customers and, if there is an impact, what if anything should the Commission order to address it?

Position: The inclusion of LLCS customers will increase the amount recovered from non-LLCS customers through Ameren’s FAC:

Adding large load customers will increase FAC cost components, but it will not change FAC revenues. This means that, as large load customers are added, the average actual FAC cost will increase above the FAC base

²³ *Id.* at pg. 28 lns. 17 – 18.

²⁴ *Id.* at lns. 14 – 17.

²⁵ *Surrebuttal Testimony of Geoff Marke*, pg. 39 lns. 19 – 22.

²⁶ *Rebuttal Testimony of Lena M. Mantle*, pg. 5 lns. 16 – 26.

cost set in Ameren Missouri's most recent general rate case. Because the FAC mechanism allows an electric utility to recover the difference between actual FAC costs and FAC base costs, the difference being driven by the addition of large load customers will ultimately increase the amount that Ameren may recover through the FAC. Moreover, this increase in FAC costs will ultimately be passed onto all of Ameren's existing customers. This will cause Ameren Missouri's other retail customers to pay a portion of the costs Ameren Missouri incurs to serve these large load customers until these costs are included in the FAC base cost as part of a future general rate proceeding.²⁷

In order to address this, the Commission should order "that the FAC net costs for [LLCS] customers be tracked separately from the other customers' FAC net costs and not be passed through the current Rider FAC."²⁸

Issue J(b): What, if any, changes should be made to Ameren Missouri's existing FAC tariff sheet?

Position: "[I]f the Commission creates a new 'Large Load Customer Service Schedule LLCS' as proposed by Staff[.]" then no changes are necessary.²⁹ This is because Ameren's current FAC specifies what customer classes it applies to and the LLCS would not fall within that list.³⁰ Even if the Commission declines to treat the LLCS customers as a separate class, there should be no changes made to the FAC tariff. Instead, the Commission should order the addition of "language to the Large Primary Service Rate Schedule No. 11(M) tariff sheets [that states] that the FAC rider does not apply to these customers."³¹

²⁷ *Id.* at pg. 2 ln. 15 – pg. 3 ln. 2.

²⁸ *Id.* at pg. 5 lns. 16 – 18.

²⁹ *Surrebuttal Testimony of Lena M. Mantle*, pg. 3 lns. 8 – 20.

³⁰ *Id.*

³¹ *Rebuttal Testimony of Lena M. Mantle*, pg. 5 lns. 16 – 26.

Issue J(c): When/in what case should any changes be made?

Position: As the OPC is arguing no changes should be made, this question is moot.

Issue K: Should LLCS customers be served from a separate, unique, designated load node?

Position: Yes.³² Absent this, “it will be difficult to accurately isolate the expenses from the myriad of MISO charges that will be impacted by LLCS customers.”³³ “This information not only would be used to ensure that non-LLCS customers are not subsidizing LLCS customers through the FAC but also for appropriately accounting for cost differences in the future designing of rates for both the LLCS and non-LLCS customers.”³⁴

Issue L: Is a waiver of RES requirements 20 CSR 4240.20.100(1)(W) and the authorizing statute lawful and reasonable with regard to LLCS customers?

Position: The OPC takes no position on this issue at this time but reserves the right to address this issue in briefing as needed.

Issue M: How should revenues from LLCS customers be treated?

Position: The Commission should order the “creation of a deferred regulatory liability account into which Ameren Missouri defers the level of LLCS revenues described in Staff’s recommended tariff, Appendix 2, Schedule 1.”³⁵ “The revenues to be deferred, would include the Generation Demand Charge revenue, and the Variable Fixed

³² *Surrebuttal Testimony of Lena M. Mantle*, pg. 9 lns. 6 – 21.

³³ *Id.*

³⁴ *Id.*

³⁵ *Staff Recommendation / Rebuttal*, pg. 21 lns. 12 – 17.

Revenue Contribution and Stable Fixed Revenue Contribution charge revenues.”³⁶

This account would offset production ratebase, and be amortized over a 50-year period.”³⁷

Issue N: What additional riders, if any, should be authorized by the Commission at this time, including:

Issue N(a): The Clean Capacity Advancement Program?

Position: This should not be authorized simply because Ameren has not provided sufficient information to support the proposal.³⁸ For example: there was no cost benefit analysis performed, the program currently has no proposed price, Ameren has not dedicated any specific resources to the program, and Ameren has not explained how new resources will be sourced for the program.³⁹

Issue N(b): The Clean Energy Choice Program?

Position: This should not be authorized because it is unnecessary and massively burdensome. LLPS customers can just choose to intervene in the Company’s IRP cases before the Commission like all other customers. In addition, “the IRP process is likely to drastically change with the recent passage and signing of Senate Bill 4.”⁴⁰ “The Commission should allow for the new IRP process to be developed and

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Staff Recommendation / Rebuttal*, pg. 74 lns. 7 – 8.

³⁹ *Id.* at pg. 73 ln. 22 – pg. 74 ln. 5.

⁴⁰ *Id.* at pg. 76 lns. 22 – 23.

understood prior to considering a rider that allows for customers to influence prudent resource planning.”⁴¹

Issue N (c): The Nuclear Energy Credit Program?

Position: This should not be authorized because Ameren has not yet selected a third-party to certify the NECs.⁴² As such, “Ameren Missouri cannot provide information on the cost of running the program.”⁴³ “Additionally, Ameren Missouri has not proposed a program rate and has not provided any workpapers on a proposed pricing calculation.”⁴⁴

Issue N (d): The Renewable Solutions Program – Large Load Customers?

Position: This should not be authorized because it is unnecessary. “If Ameren Missouri wishes to sell RECs via contracts with its large load customers, it is able to do so outside of a tariff according to 20 CSR 4240-20.100(3)(I).”⁴⁵ Additionally, Ameren “is proposing more tariffs to sell RECs to its customers while at the same time Ameren Missouri is unable to comply with its own Renewable Energy Standard requirements without purchasing RECs and requesting variances related to retirement timing.”⁴⁶

⁴¹ *Id.* at pg. 78 lns. 24 – 26.

⁴² *Id.* at pg. 70 lns. 1 – 10.

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.* at pg. 72 lns. 23 – 24.

⁴⁶ *Id.* at pg. 72 ln. 24 – pg. 73 ln. 1.

Issue N(e): The Clean Transition Tariff (as described in the Rebuttal Testimony of Dr. Carolyn Berry)?

Position: The OPC takes no position on this issue at this time but reserves the right to address this issue in briefing as needed.

Issue O: Should a form customer service agreement be included in the Commission approved LLCS tariffs resulting from this case?

Position: Yes..⁴⁷

Issue O(a): Should a form ESA be included in the pro forma LPS Tariff?

Position: Yes..⁴⁸

Issue O(b): Should the ESA require approval by the Commission?

Position: Yes..⁴⁹

Issue O(c): Should minimum filing requirements be required?

Position: Yes..⁵⁰

Issue O(d): What is the standard for review?

Position: This is a legal question that is not properly before the Commission at this time as the Commission is not presently reviewing any specific customer's service agreement.

⁴⁷ *Staff Recommendation / Rebuttal*, pg. 32 lns. 4 – 6.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.* at pg. 31 lns.1 – 20.

Issue P: Are changes needed for the Emergency Energy Conservation Plan tariff sheet and related tariff sheets to accommodate LLCS customers?

Position: Yes, in that, “service under this tariff be subject to mandatory emergency curtailments as warranted.”⁵¹ This is consistent with provisions adopted recently in Texas.⁵² “[T]he ability to curb LLPS load in the face of an emergency is a non-negotiable issue.”⁵³

Issue Q: What studies should be required for customers to take service under the LLCS tariff, if any?

Position: The Commission should order that three studies/reporting mechanisms proposed by the OPC’s witness Dr. Geoff Marke be undertaken/required before customers can take service under the LLPS tariff sheets.⁵⁴ The first of these three is the pre-construction power usage/energy efficiency study and post-construction Power Usage Effectiveness (“PUE”) reporting.⁵⁵ The PUE “is a metric that measures the energy efficiency of a data center or large energy-intensive facility and helps recognize any opportunity to improve energy usage over time.”⁵⁶ Benchmarking this is important because it “will place a heightened emphasis on reducing costs, enhancing sustainability, supporting the *necessary* electric service build-out, and allow regulators, customers and the utility the ability to make more informed planning decisions moving forward.”⁵⁷ The second is the pre-construction water

⁵¹ *Rebuttal Testimony of Geoff Marke*, pg. 33 lns. 8 – 9.

⁵² *Id.* at lns 11 – 18.

⁵³ *Id.*

⁵⁴ *Id.* at pg. 45 lns. 7 – 10.

⁵⁵ *Id.* at pg. 34 lns. 10 – 15.

⁵⁶ *Id.* at lns. 20 – 22.

⁵⁷ *Id.* at pg. 36 lns. 14 – 17.

usage study and post-construction Water Usage Effectiveness (“WUE”) reporting.⁵⁸ This represents “a metric that measures the water efficiency of a data center or large energy-intensive facility and helps recognize any opportunity to improve this over time.”⁵⁹ Measuring it will allow stakeholders to “be better able to make informed planning decisions across the service territory in regards to valuing finite natural resources and assuring the surrounding areas are sustainable.”⁶⁰ The third and final study/reporting mechanism is the pre-construction total harmonic distortion (“THD”) and power quality study and post-construction harmonics reporting.⁶¹ “Harmonic distortion is the presence of unwanted frequency components in a power system . . . and can significantly impact the performance and reliability of the distribution system.”⁶² “The results of this analysis should help inform right-sizing equipment and load patterns to minimize harmonic distortions moving forward.”⁶³

Issue R: What reporting on large load customers should the Commission require?

Position: The reporting recommended by Staff witness Clarie M. Eubanks.⁶⁴

⁵⁸ *Id.* at pg. 38 lns. 3 – 15.

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.* at pg. 40 lns. 8 – 12.

⁶² *Id.*

⁶³ *Id.* at pg.42 ln. 7 – pg. 43 ln. 17.

⁶⁴ *Surrebuttal Testimony of Claire M. Eubanks, PE*, pg. 8 ln. 14 – pg. 9 ln. 4.

Issue S: Should the Commission order a community benefits program as described in the testimony of Dr. Geoff Marke?

Position: As explained in the testimony of the OPC's witness Dr. Marke and further exemplified by the many problems in Staff's *Recommendation*, there are tremendous risks associated with the introduction of LLPS customers into Missouri. In order to combat these problems, the Commission should order the creation of a "community benefits program to inject direct support into Missouri."⁶⁵ As Dr. Marke explained:

As the Commission is well aware, the federal government has recommended that states are in a better position to determine whether or not funding is necessary for many of the U.S.'s historically federally funded social service benefits programs, including funding for the Low Income Home Energy Assistance Program ("LIHEAP") and the Low-Income Weatherization Assistance Program ("LIWAP"). I believe it is more than appropriate to explore outside funding from data center customers as a means of offsetting some of the perceived risk and helping ease the societal transition they are supporting. . . . I also believe that is consistent with Missouri law (§ 393.130(7), RSMo) and is also consistent with recent legislation passed in the State of Texas and Oregon..⁶⁶

Dr. Marke further identified how "Missouri's eighteen strategically located community action agencies" have already had to reduce staff from 183 to 121 due to federal budget cuts and that "the entire weatherization program is critically at risk of folding if future funding streams do not materialize."⁶⁷

⁶⁵ *Rebuttal Testimony of Geoff Marke*, pg. 32 ln. 14 – pg. 33 ln. 4

⁶⁶ *Id.*

⁶⁷ *Surrebuttal Testimony of Geoff Marke*, pg. 40 lns. 9 – 17.

To effectuate the Customer Benefits Program, Dr. Marke recommends “that a Community Benefits Fund be created and administered by the existing non-profit Missouri Community Action Agency Network.”⁶⁸ “[D]ata center customers electing to take service on the Ameren’s large load tariff [would] be required to make an upfront one-time \$10 million fee to the fund for weatherization services that will focus on traditional cost-effective weatherization measures as well as programmable thermostats to allow for active demand response events as a condition for weatherization services.”⁶⁹ “After the initial up front payment, participating data center participants will be required to pay a minimum fee of \$2.5 million a year to reflect 25 MW of peak load with an additional \$100K for every subsequent MW above 25.”⁷⁰

In exchange for these contribution, the OPC proposes that “[p]articipating data center customers will have their minimum bill requirement lowered from 90% to 80% in recognition of their contribution to the Missouri economy and the labor market.”⁷¹ In addition, “[d]ata centers can also claim more jobs created, greater resiliency for the state and its many income eligible households, and, over time and at scale, will result in future deferred supply side investment.”⁷²

⁶⁸ *Id.*, at lns. 24 – 26.

⁶⁹ *Id.*, at pg. 40 ln. 26 – pg. 41 ln. 4.

⁷⁰ *Id.*, at pg. 41 ln.s 5 – 7.

⁷¹ *Id.*, at lns. 10 – 17.

⁷² *Id.*

WHEREFORE, the Office of the Public Counsel respectfully requests the Commission accept the OPC's *Position Statements*, rule in the OPC's favor on all positions taken herein, and order such other relief as is just and reasonable under the circumstances.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing have been mailed, emailed, or hand-delivered to all counsel of record this tenth day of November, 2025.

 /s/ John Clizer