

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

City of Fulton, Hannibal Board of )  
Public Works, Kirkwood Electric, )  
City of Marceline and City of )  
New Madrid, Complainants, )  
)  
v. ) Case No. EC-2026-0156  
)  
Union Electric Company d/b/a Ameren )  
Missouri, )  
)  
Respondent. )

**COMPLAINANTS’ MOTION FOR DETERMINATION ON THE PLEADINGS OR, IN  
THE ALTERNATIVE, SUMMARY DETERMINATION,  
STATEMENTS OF UNDISPUTED MATERIAL FACTS AND MEMORANDUM  
IN SUPPORT**

**MOTION**

The City of Fulton, Hannibal Board of Public Works, Kirkwood Electric, City of Marceline and City of New Madrid (collectively “Missouri Public Power”) move, pursuant to 20 CSR 4240-2.117(1) and (2), the Verified Complaint filed on December 23, 2025 by Missouri Public Power, the Answer filed on February 13, 2026 by Union Electric Company d/b/a Ameren Missouri (“Ameren”), the law cited herein and the public interest, for Determination on the Pleadings, or in the alternative, for Summary Determination in favor of Missouri Public Power. Given the admissions contained within Ameren’s Answer and the operation of law, there is now no genuine issue as to the material facts set forth herein and Missouri Public Power is also entitled to judgment on its claims as a matter of law:

- Ameren is subject to the jurisdiction of this Commission; and

- In its operation of its Rush Island Energy Center (“Rush Island”), Ameren failed to obtain all necessary permits and approvals from all governmental and regulatory authorities having jurisdiction; and
- Ameren therefore violated its Tariff Sheet No. 102; and
- In its operation of Rush Island, Ameren failed to comply with applicable federal and state air quality standards; and
- Ameren therefore violated its CCN ordered at 15 Mo. P.S.C. (N.S.) 505, Case No. 17,139 on May 21, 1971 (effective June 2, 1971); and
- This Commission acknowledged in its Report & Order issued in EF-2024-0021 its authority to preside over cases evidencing harm resulting from Ameren’s actions/decisions at Rush Island; and
- The City of Fulton, Hannibal Board of Public Works, Kirkwood Electric, City of Marceline and City of New Madrid are each a person or public utility who feel aggrieved by Ameren’s violation of its Tariff and the Commission’s Orders.

Therefore, a Determination on the Pleadings or Summary Determination of this case will serve the public interest and welfare by providing justice for all parties and interested persons while efficiently conserving financial and human resources.

**STATEMENT OF UNDISPUTED MATERIAL FACTS BY AMEREN’S ADMISSIONS**

1. Ameren is a Missouri corporation doing business under the fictitious name of Ameren Missouri, organized and existing under the laws of the State of Missouri, with its principal office and place of business located at One Ameren Plaza, 1901 Chouteau Avenue, St. Louis, Missouri 63103. (Answer Par. 3; Verified Complaint Par. 3).

2. Ameren is a public utility engaged in the business of distributing and transporting electricity to customers in the State of Missouri and is subject to the jurisdiction of the Commission under Revised Statutes of Missouri (“RSMo”) Chapters 386 and 393. (Answer Par. 4; Verified Complaint Par. 4).
3. Exhibit A to the Verified Complaint is an accurate copy of Ameren’s Tariff Sheet No. 102. (Answer Par. 12; Verified Complaint Par. 12 and Exhibit A).
4. Exhibit A to the Verified Complaint, Ameren’s Tariff Sheet No. 102, mandates that “[i]n supplying service to customers, Company shall furnish such service within a reasonable length of time dependent upon the availability of materials, labor and system capacity, and after all necessary easements, permits and approvals are obtained from the customer and other governmental and regulatory authorities having jurisdiction.” (Answer Par. 13; Verified Complaint Par. 13 and Exhibit A).
5. Exhibit B to the Verified Complaint (Ameren’s CCN for Rush Island) is an accurate copy of the Commission’s order in 15 Mo. P.S.C. (N.S.) 505, Case No. 17,139. (Answer Par. 14; Verified Complaint Par. 14 and Exhibit B).
6. As found by the Commission at R&O EF-2024-0021 Pages 18-19, “The Court (the United States District Court for the Eastern District of Missouri) found Ameren Missouri liable for violations of the Clean Air Act (by failing)...to have obtained a permit (for)... major modifications (at)...Rush Island.” (Answer Par. 15; Verified Complaint Par. 15).
7. As found by the Commission at R&O EF-2024-0021, Pages 28-29, and on Page 19, “[o]n September 30, 2019, the District Court determined that Ameren Missouri’s 2007 and 2010 Rush Island Projects had violated the Clean Air Act. The District Court explained that ‘when Ameren [Missouri] decided to make major modifications to expand Rush

Island's capacity, Ameren [Missouri] refused to play by the rules Congress set. It did not apply for the required PSD permit, and in so doing skirted PSD's requirement to install the best available technology to control the pollution Rush Island emits.' That decision directed Ameren Missouri to apply for a PSD permit within 90 days and propose FGD [Flue-Gas Desulfurization] and Best Available Control Technology in its PSD permit application. Ameren Missouri was ordered to operate its Rush Island units with an emissions limit of 0.05 lb. SO<sub>2</sub>/mm BTU on a thirty-day rolling average within four- and one-half years of the District Court's order (no later than March 31, 2024)." (Answer Par. 16; Verified Complaint Par. 16).

8. As found by the Commission at R&O EF-202400021, Page 20, "[a] determination that Ameren Missouri violated the Clean Air Act by not obtaining required permits has already been made by the United States District Court for the Eastern District of Missouri." (Answer Par. 17; Verified Complaint Par. 17).
9. As found by the Commission at R&O EF-2024-0021, Page 20, "[o]n March 28, 2024, the District Court ordered Ameren Missouri to file a transcript of that day's proceedings with the Commission. On April 8, 2024, Ameren Missouri filed that District Court transcript. In that transcript the District Court expresses concern about Ameren Missouri's representations to the Commission. The District Court stated: 'I mean, it is what I said in my opinion; that a decision was not reasonable. And that's not mentioned anywhere to the PSC. In fact, Ameren continues to take the position that despite this Court's findings and its findings being affirmed in all respects by the U.S. Court of Appeals the decision was not reasonable, you went to the PSC and told them that it was.'" (Answer Par. 18; Verified Complaint Par. 18).

10. As found by the Commission at R&O EF-2024-0021, Page 20, and also Page 30,  
“Ameren Missouri filed a motion with the District Court in December 2021, to modify the District Court’s order to allow Ameren Missouri to retire Rush Island rather than install pollution control technology.” (Answer Par. 19; Verified Complaint Par. 19).
11. In a District Court filing dated February 22, 2022, Ameren and the Environmental Protection Agency stipulated that Ameren would “suspend for economic reasons operation of all or a portion of the...[Rush Island] Generator commencing on 1<sup>st</sup> of September 2022.” (Answer Par. 20; Verified Complaint Par. 20 and Exhibit C).
12. In a District Court filing dated August 1, 2023, Ameren moved the District Court to allow Ameren to shut down Rush Island’s boilers on October 15, 2024. (Answer Par. 21; Verified Complaint Par. 21 and Exhibit D).
13. As found by the Commission at R&O EF-2024-0021, Page 20, and also Page 30, “[o]n September 30, 2023, the District Court issued its order, ordering Ameren Missouri to retire Rush Island no later than October 25, 2024, and terminating boiler operations no later than October 15, 2024.” (Answer Par. 22; Verified Complaint Par. 22).
14. As found by the Commission at R&O EF-2024-0021, Page 26, “Ameren Missouri planned to keep Rush Island operating until 2039.” (Answer Par. 23; Verified Complaint Par. 23).
15. As found by the Commission at R&O EF-2024-0021, Page 29, “Ameren Missouri’s 2020 integrated resource plan maintained a 2039 retirement date for Rush Island. Ameren Missouri evaluated two plans based upon the 2020 integrated resource plan. One plan contemplated Rush Island’s early retirement at the end of 2025, and the other involved

the plant's continued operation through 2039, with FGD installed.” (Answer Par. 24; Verified Complaint Par. 24).

16. As found by the Commission at R&O EF-2024-0021, Page 30, “[t]here may be future harm related to capacity shortfalls or remedies imposed by the District Court, but those amounts are not yet known.” (Answer Par. 25; Verified Complaint Par. 25).

17. As found by the Commission at R&O EF-2024-0021, Page 33, “Any consequences for harms that may have been caused by Ameren Missouri’s violations are unknown at this time because future harm related to potential capacity shortfalls are not yet known and the District Court has not determined the remedy for Ameren Missouri’s violation as of the issuance of this Financing Order.” (Answer Par. 26; Verified Complaint Par. 26).

18. As found by the Commission at R&O EF-2024-0021, Page 33, “...Ameren Missouri will have to find solutions to a potential capacity shortage in the future....” (Answer Par. 27; Verified Complaint Par. 27).

19. As found by the Commission at R&O EF-2024-0021, Page 36, “...At this time, it is not possible to quantify the harm resulting from these decisions and the District Court has not determined what remedies will be imposed on Ameren Missouri. Even if Ameren Missouri’s actions were deemed imprudent, the Commission would be unable to assess a disallowance without evidence of harm on which to base any disallowance. Any potential harm from those actions may be litigated before the Commission in future cases, but cannot be assessed now.” (Answer Par. 28; Verified Complaint Par. 28).

20. There are two Local Balancing Authorities in MISO Zone 5 (AMMO = Ameren and CWLD = Columbia Water and Light Department). (Answer Par. 29; Verified Complaint Par. 29).

21. In the PRA for the 2024/2025 Planning Year, there was a MISO Zone 5 Local Clearing Requirement deficiency in the Fall Season of 872.4 MW. (Answer Par. 32; Verified Complaint Par. 32).
22. In the PRA for the 2024/2025 Planning Year, there was a MISO Zone 5 Local Clearing Requirement deficiency in the Spring Season of 196.4 MW. (Answer Par. 34; Verified Complaint Par. 34).
23. In the PRA for the 2024/2025 Planning Year, the Zone 5 clearing prices were \$719.81/MW-Day for both the Fall and Spring Seasons. (Answer Par. 36; Verified Complaint Par. 36).
24. (In the PRA for the 2024/2025 Planning Year), the clearing price for all other MISO Zones was \$15.00/MW-Day in the Fall Season and \$34.10/MW-Day in the Spring Season. (Answer Par. 37; Verified Complaint Par. 37).

**STATEMENT OF UNDISPUTED MATERIAL FACTS BY OPERATION OF LAW**

25. The CCN ordered for Ameren’s construction and operation of Rush Island contains this language: “...the authority granted herein shall in no way be construed as authority for waiver of compliance by [Ameren] with any air or water quality control standards now existing or proposed by any agency of the State of Illinois or Missouri or of the Government of the United States.” (Official/Administrative Notice; Verified Complaint Par. 14 and Exhibit B; Answer Par. 14).
26. The Midcontinent Independent System Operator (“MISO”) has determined and officially reported that but for the “retired coal” in Zone 5 during the time relevant to this case there would not have been a capacity shortage in Zone 5 for the Fall 2024 Season. (Official/Administrative Notice; Verified Complaint Par. 33; Answer Par. 33).

27. MISO has determined and officially reported that but for the “retired coal” in Zone 5 during the time relevant to this case there would not have been a capacity shortage in Zone 5 for the Spring 2025 Season. (Official/Administrative Notice; Verified Complaint Par. 35; Answer Par. 35).
28. The City of Fulton is a “person” and a “public utility” authorized to file this Complaint case. (Answer Par. 48, 11, 5 and Seventh Affirmative Defense; Verified Complaint Par. 5, 11; case law cited in Memorandum in Support; 20 CSR 4240-2.010(11) and (16); 20 CSR 4240-2.070(1)).
29. Hannibal Board of Public Works is a “person” and a “public utility” authorized to file this Complaint case. (Answer Par. 48, 11, 6 and Seventh Affirmative Defense; Verified Complaint Par. 6, 11; case law cited in Memorandum in Support; 20 CSR 4240-2.010(11) and (16); 20 CSR 4240-2.070(1)).
30. Kirkwood Electric is a “person” and a “public utility” authorized to file this Complaint case. (Answer Par. 48, 11, 7 and Seventh Affirmative Defense; Verified Complaint Par. 7, 11; case law cited in Memorandum in Support; 20 CSR 4240-2.010(11) and (16); 20 CSR 4240-2.070(1)).
31. The City of Marceline is a “person” and a “public utility” authorized to file this Complaint case. (Answer Par. 48, 11,, 8 and Seventh Affirmative Defense; Verified Complaint Par. 8, 11; case law cited in Memorandum in Support; 20 CSR 4240-2.010(11) and (16); 20 CSR 4240-2.070(1)).
32. The City of New Madrid is a “person” and a “public utility” authorized to file this Complaint case. (Answer Par. 48, 11, 9 and Seventh Affirmative Defense; Verified

Complaint Par. 9, 11; case law cited in Memorandum in Support; 20 CSR 4240-2.010(11) and (16); 20 CSR 4240-2.070(1)).

### **MEMORANDUM IN SUPPORT OF MOTION**

#### **Law Governing this Determination on the Pleadings and Summary Determination:**

The stated purpose of this Commission’s Rule 20 CSR 4240-2.117 is to “provide[] for disposition of a contested case by disposition in the nature of summary judgment or judgment on the pleadings.” 20 CSR 4240-2.117 *Preamble*. Because Missouri Public Power’s pending Motion meets the requirements of both judgment on the pleadings and summary judgment, Missouri Public Power moves for Determination on the Pleadings, and in the alternative, for Summary Determination.

Where a motion is grounded solely on the pleadings filed by the moving and opposing parties, the Commission is authorized to grant the motion for determination on the pleadings that “is not otherwise contrary to law or contrary to the public interest.” 20 CSR 4240-2.117(2); Rule 55.27(b) *Missouri Rules of Civil Procedure* (“Mo.R.Civ.P.”). Mo.R.Civ.P Rule 55.12 mandates that “[a]n exhibit to a pleading is a part thereof for all purposes.” Consequently, “[e]xhibits attached to the pleadings are incorporated therein and will be considered in determining whether judgment on the pleadings should have been granted.” *Ocello v. Koster*, 354 S.W.3d 187, 197 (Mo. 2011). Four exhibits – Exhibits A, B, C and D – are attached to Missouri Public Power’s Verified Complaint and incorporated therein. Therefore, even in reliance on Exhibits A – D, along with the Verified Complaint and Ameren’s Answer (which, as noted above, admits the authenticity of and quoted language within such Exhibits), Missouri Public Power lawfully moves for Determination on the Pleadings.

Where the motion is grounded on the parties' pleadings, and also other testimony, discovery, affidavits or memoranda, and the Commission finds that such evidence "show[s] that there is no genuine issue as to any material fact, that [the moving party] is entitled to relief as a matter of law as to all or any part of the case, and the commission determines that it is in the public interest," the Commission is authorized to grant summary determination. 20 CSR 4240-2.117(1)(E); *PSC v. Mo. Gas Energy*, 388 S.W.3d 221, 228 (Mo. App. W.D. 2012); *Union Electric Co. v. Public Service Com.*, 591 S.W.2d 134, 135 n. 1 (Mo. App. W.D. 1979). To find that determination on the pleadings or summary determination is in the "public interest," the Commission considers the "efficient facilities and substantial justice between patrons and public utilities." *PSC v. Mo. Gas Energy*, 388 S.W.3d at 228. Summary determination that is in the public interest also includes the "public welfare." *R&S Home Builders, Inc. and Carol and Arvell Allman, Complainants v. KCP&L Greater Missouri Operations Company, Respondent*, No. ED-2014-0343, 2015 Mo. PSC LEXIS 239 at \*30 (April 18, 2015); *Patricia Schuba and Dean Todd, Complainants v. Union Electric Company d/b/a/ Ameren Missouri, Respondent*, No. ED-2014-0342, 2015 Mo. PSC LEXIS 238 at \*22 (April 18, 2015). The Commission is further authorized to consider "verified filings" in granting summary determination. *R&S Home Builders, Inc.*, 2015 Mo. PSC LEXIS 239 at \*8. Rule 74.04 adds "exhibits" to the list of types of evidence that *may* ground a summary determination or judgment. Mo.R.Civ.P. 74.04(c)(1). In addition to the fully-incorporated Exhibits A – D, Missouri Public Power's Verified Complaint contains quotations from the Commission's Report & Order issued in EF-2024-0021 and excerpts from an official report issued by MISO, all of which are fully contained within the Verified Complaint although not attached as Exhibits.

Should the Commission choose to proceed under Missouri Public Power’s alternative motion for Summary Determination, Missouri Public Power has provided herein its Statements of Undisputed Material Facts (“SUMF”) Numbered 1 – 32. Those material facts rendered undisputed by virtue of Ameren’s outright admission of said facts are numbered 1 – 24, and those material facts rendered undisputed by operation of law are numbered 25 – 32. Missouri Public Power has set forth herein the “material” facts, which for purposes of summary determination, “depend on the claim or defense upon which the motions stands...” *Emma J. McFarlin and Rebecca Shepherd, Complainants v. Kansas City Power & Light Company, Respondents*, No. EC-2013-0024, 2013 Mo. PSC LEXIS 417 at \*3 (April 25, 2013). “A dispute [of fact] is genuine if it ‘is real, not merely argumentative, imaginary or frivolous.’” *Id.*, citing *ITT Comm. Fin. Corp. v. Mid-Am. Marine Supply Corp.*, 854 S.W.2d 371, 380-382 (Mo. Banc 1993). As Complainant and Movant, Missouri Public Power carries the burden of proof. *Id.*, citing Section 386.390.1 RSMo.

**As a matter of law, Summary Disposition in favor of Missouri Public Power is due because there is no dispute that Ameren violated its Tariff by failing to obtain the necessary federal permits for Rush Island and Ameren violated its CCN by failing to comply with federal air quality standards for Rush Island:**

Ameren is subject to the Commission’s jurisdiction. SUMF Nos. 1 and 2. Exhibit A to the Verified Complaint is an accurate copy of Ameren’s Tariff Sheet No. 102, which mandates that “[i]n supplying service to customers, Company shall furnish such service within a reasonable length of time dependent upon the availability of materials, labor and system capacity, and after all necessary easements, permits and approvals are obtained from the customer and other governmental and regulatory authorities having jurisdiction.” SUMF Nos. 3 and 4. Exhibit B to the Verified Complaint is an accurate copy of Ameren’s CCN issued at 15 Mo. P.S.C. (N.S.) 505, Case No. 17, 139. SUMF No. 5. That CCN contains this language:

“...the authority granted herein shall in no way be construed as authority for waiver of compliance by [Ameren] with any air or water quality control standards now existing or proposed by any agency of the State of Illinois or Missouri or of the Government of the United States.” SUMF No. 25. Inexplicably, Ameren denied the existence of this language at Par. 14 of its Answer. But, Ameren’s ungrounded denial has no effect because the Commission has authority to take “official notice of all matters of which the courts take judicial notice,” which includes “conclusive findings” within other relevant cases. Section 536.070(6) RSMo; *Envtl. Utils. LLC v. PSC of Mo.*, 219 S.W.3d 256, 265 (Mo. App. W.D. 2007); *see also, Empire Dist. Elec. Co. v. P.S.C.*, 630 S.W.3d 887, 891 (Mo. App. W.D. 2021).

The United States District Court for the Eastern District of Missouri found Ameren had violated the Clean Air Act because it had operated Rush Island without obtaining all of the necessary federal permits, and this Commission incorporated that Court’s ruling into its Report and Order in EF-2024-0021. SUMF Nos. 6, 7 and 8. Therefore, Ameren violated its Tariff which required it to have obtained those “necessary permits and approvals” from the “governmental and regulatory authorities having jurisdiction.” Moreover, Ameren violated its CCN which required it to comply with all “air quality control standards” of the federal government.

**Summary Disposition in favor of Missouri Public Power is in the Public Interest and any delay or further activity regarding the undisputed material facts herein would be against that Public Interest:**

Ameren’s violation of federal law, its Missouri Tariff and its Missouri CCN are undeniably contrary to the public interest and public welfare. Additionally, Ameren’s attempt to mislead this Commission regarding the ruling of the federal court is contrary to the public interest and public welfare. This Commission accepted into the Record in EF-2024-0021 the

transcript of the Court ordering Ameren to so submit that transcript because Ameren had maintained before the Commission that its actions/decisions at Rush Island had been “reasonable,” despite the Court’s ruling that Ameren’s actions/decisions were unreasonable. SUMF No. 9.

Additionally, Ameren’s delay in complying with the permitting and air quality laws governing Rush Island, or closing down Rush Island’s pollution, were contrary to the public interest and the public welfare. In 2019, the Court ordered Ameren to bring its operation of Rush Island into compliance with law no later than March 31, 2024. SUMF No. 7. But, in December 2021, Ameren moved the Court to allow it to retire Rush Island instead of bringing its operation into compliance with law, and Ameren requested until September 1, 2022 to accomplish that retirement. SUMF Nos. 10 and 11. Rush Island was still not shut down by September 1, 2022, and Ameren asked the Court to allow it until October 15, 2024 to retire Rush Island. SUMF No. 12. The Court ruled, on September 30, 2023, that Ameren must terminate Rush Island’s boiler operations by October 15, 2024, and retire Rush Island by October 25, 2024. SUMF No. 13. This Commission incorporated these Court filings by Ameren, and the Court’s orders, into its order issued in EF-2024-0021. SUMF Nos. 7, 10 and 13.

Setting aside the harmful pollution caused by Ameren’s unlawful operation of Rush Island for purposes of this Motion, Ameren’s October 2024 retirement of Rush Island was significantly earlier than Ameren’s previously-publicized plans for the term of Rush Island’s operation, and that early cessation of that generation was contrary to the interest and welfare of the public users of that generation. As found by this Commission in EF-2024-0021, Ameren had publicly and officially declared that Rush Island would generate electricity until 2039. SUMF Nos. 14 and 15. But for the retirement of coal generation (which undeniably includes Ameren’s

Rush Island, if not exclusively Ameren’s Rush Island) in MISO’s Missouri Zone 5, there would not have been higher local clearing requirements and reduced capacity for the Fall 2024 or Spring 2025 Seasons in MISO’s Planning Reserve Auction (“PRA”) for the 2024/2025 Planning Year, and this Commission is authorized to take official notice of that “technical or scientific fact” which is “commonly acknowledged to be true.” Section 536.070 RSMo; *In the Matter of the Gas Service Company of Kansas City, Missouri for authority to file tariffs reflecting an increase in rates for gas service provided to customers in the Missouri service area of the Company*, No 18,662, 1976 Mo. PSC LEXIS 5 at \*30 (December 6, 1976). SUMF Nos. 20, 26 and 27. Because of the MISO Zone 5 Local Clearing Requirement deficiency of 872.4 MW in the Fall Season, the clearing price was \$719.81/MW-Day instead of \$15.00. SUMF Nos. 21, 23 and 24. Because of the MISO Zone 5 Local Clearing Requirement deficiency of 196.4 MW in the Spring Season, the clearing price was \$719.81/MW-Day instead of \$34.10. SUMF Nos. 22, 23 and 24.

This Commission has already found, in EF-2024-0021, that Ameren’s unlawful operation of Rush Island and early retirement of that electric generation may cause future harms, including capacity shortfalls, and the Commission will hear that resulting litigation. SUMF Nos. 16, 17 18 and 19. Given these undisputed material facts, the Summary Disposition procedure provides Ameren with substantial justice and Due Process, and Missouri Public Power is entitled to Summary Disposition as a matter of law. Moreover, Summary Disposition of this case is in the Public Interest because “protracting” this case with any further actions or delay will waste the time and resources of the Commission and the parties to this case, and be an affront to the public interest and welfare given Ameren’s unlawful, delaying and harmful actions evidenced herein.

*R&S Home Builders, Inc.*, 2015 Mo. PSC LEXIS 239 at \*30-31; *Patricia Schuba*, 2015 Mo. PSC LEXIS 238 at \*22

**Fulton, Hannibal Board of Public Works, Kirkwood Electric, Marceline and New Madrid are each a “person” and a “public utility” who “feel aggrieved” by Ameren’s violation of its Tariff, CCN and this Commission’s Orders, and thus are authorized to file this Complaint case and pursue this Motion:**

Pursuant to 20 CSR 4240-2.070(1), “Any person or public utility who feels aggrieved by an alleged violation of any tariff,...order or decision within the commission’s jurisdiction may file a complaint.” For purposes of complying with this rule for filing Complaints, a “person” is defined as “...a natural person, corporation, municipality, political subdivision, state or federal agency, and a partnership.” 20 CSR 4240-2.010(11). A “public utility” is defined as “...every pipeline corporation, gas corporation, electrical corporation, telecommunications corporation, water corporation, heat or refrigeration corporation, sewer corporation, any joint municipal electric utility commission....” 20 CSR 4240-2.010(16). And, a “corporation” is defined as “...a corporation, company, association, or joint stock company or association, or any other entity created by statute which is allowed to conduct business in the state of Missouri.” 20 CSR 4240-2.010(7).

At Paragraphs 5, 6, 7, 8, 9, 11 and 48 of their Verified Complaint, Missouri Public Power alleged facts evidencing each entity’s authority as “persons” and “public utilities” to file this Complaint case. SUMF Nos. 28, 29, 30, 31 and 32. Ameren’s Answer to Paragraphs 5 – 9 and 48 of the Verified Complaint was to declare insufficient knowledge or information and thus deny those alleged facts. And, Ameren’s Answer to Par. 11 of the Verified Complaint is a bare denial. But, Ameren’s Answer to Paragraphs 5 – 9, 11 and 48 of the Verified Complaint is legally insufficient to effect such denial of those facts. Rule 55.13 Mo.R.Civ.P. mandates that it was sufficient for Missouri Public Power to “aver the ultimate fact of the capacity of a party to sue”

and that to deny Missouri Public Power's said authority, Ameren "shall do so by specific negative averment, which shall include such supporting particulars as are peculiarly within the pleader's knowledge." "Any matters regarding corporate capacity, which would be disclosed by a reasonable examination of public records, should be included in the specific negative averment." *Allstar Capital, Inc. v. Wade*, 352 S.W.3d 633, 638 (Mo. App. E.D. 2011). Ameren failed to do so at Paragraphs 5 – 9, 11 and 48 of its Answer. "If a defendant wishes to deny a corporation's lack of capacity to sue...that denial must be raised in the defendant's responsive pleading in accordance with Rule 55.13...Should a defendant's responsive pleading fail to assert this required specific negative averment, it will be considered an admission of the plaintiff's corporate status." *Id.* at 636; citing *Gilmore v. Bi-State Dev. Agency*, 936 S.W.2d 193, 194 (Mo. App. E.D. 1996).

Specifically, Ameren's attempt to deny Missouri Public Power's authority and standing to bring this Complaint case by claiming "a lack of 'sufficient knowledge, information or belief' is inadequate to raise the issue" of Missouri's Public Power's authority and standing. *Id.* at 637; citing *Fox Plumbing Supply v. Kootman*, 955 S.W.2d 220, 222 (Mo. App. E.D. 1997). Similarly, Ameren's Seventh Affirmative Defense, containing a bare assertion that Missouri Public Power lacks standing to pursue this Complaint, lacks the requisite specificity and is legally insufficient. *Allstar Capital, Inc.*, 352 S.W.3d at 636-637. Consequently, Ameren's failure to lawfully deny Missouri Public Power's authority and standing to pursue this Complaint case (and thus this Motion) is "considered an admission" by Ameren. *Allstar Capital, Inc.*, 352 S.W.3d at 636; citing *Gilmore*, 936 S.W.2d at 194.

Given Missouri Public Power's admitted standing as "persons" and "public utilities" authorized to pursue this Complaint case (and thus this Motion), the only remaining requirement

of 20 CSR 4240-2.070 is that Missouri Public Power “feel aggrieved” by Ameren’s violation of its Tariff, its CCN and this Commission’s orders. The Missouri Supreme Court has defined this requirement as follows:

Considering the Public Service Commission Act as a whole, it seems apparent that parties to cases before the Commission, whether as complainants or intervenors are not required to have a pecuniary interest, or property or other rights, which will be directly or immediately affected by the order sought or even its enforcement. The reasonable construction seems to be that the interest necessary to authorize intervention should be the same as that required to become a complainant upon which complaint a case is commenced. Any local partisan interest in the situation involved, such as a customer, representative of the public in the locality or territory affected or as a competitor for the same territory or privilege is surely sufficient to show an interest similar to that of complainants....

*State ex rel. Consumers Public Service Co. v. Public Service Com.*, 180 S.W.2d 40, 46 (Mo. 1944); cited by *In the Matter of the Tariff Filing of Aquila, Inc., to Implement a General Rate Increase for Retail Electric Service Provided to Customers in its MPS and L&P Missouri Service Areas*, No. ER-2005-0436, 2005 Mo. PSC LEXIS 967 at \*7 (July 12, 2005).

For purposes of this Motion, the undenied facts of Ameren’s violations of its Tariff, its CCN and this Commission’s orders, and Ameren’s aggravation of the harm resulting from those violations, it cannot be denied that, under the Supreme Court’s definition, Missouri Public Power “feels aggrieved.”

**Conclusion and Prayer for Relief:**

Given that there are no undisputed material facts, and Missouri Public Power is thus entitled to a Determination on the Pleadings or Summary Determination as a matter of law, and resolution of this case by a Determination on the Pleadings or Summary Determination is in the Public Interest, Missouri Public Power requests this Commission’s order in its favor.

Respectfully submitted,

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the City of Marceline and the City of New  
Madrid*

### **CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing “Motion for Summary Disposition, Statements of Undisputed Material Facts and Memorandum in Support of Motion of Fulton, Hannibal Board of Public Works, Kirkwood Electric, Marceline and New Madrid” has been served within the EFIS system on this 12<sup>th</sup> day of March 2026.

/s/ Peggy A. Whipple  
Peggy A. Whipple