

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

City of Fulton, Hannibal Board of Public Works, Kirkwood Electric, City of Marcelline, and City of New Madrid
Complainants,
v.
Union Electric Company d/b/a Ameren Missouri,
Respondent.

File No: EC-2026-0156

STAFF REPORT

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”), by and through the undersigned counsel, and for its *Staff Report* respectfully states as follows:

1. On December 23, 2025, the City of Fulton, the Hannibal Board of Public Works, Kirkwood Electric, the City of Marcelline, and the City of New Madrid (collectively, “Missouri Public Power”, “MPP”, or “Complainants”) filed a Complaint with the Missouri Public Service Commission against Union Electric Company, d/b/a Ameren Missouri (“Ameren” or “Complainant”).

2. MPP alleges within its Complaint that Ameren aggrieved the Complainants by (1) violating Ameren’s own Tariff (MO. PSC Schedule No. 6, Original Sheet No. 102), (2) violating the Commission’s May 21, 1971 Report and Order granting Ameren a Certificate of Convenience and Necessity (“CCN”) to operate the Rush Island Energy Center (“Rush Island”), and (3) violating the Commission’s Report and Order in Case No. EF-2024-0021 because “Ameren unlawfully, unreasonably and imprudently failed to obtain all necessary permits and approvals from all governmental and regulatory

authorities having jurisdiction and failed to comply with applicable federal and state air quality control standards, causing the October 15, 2024 retirement or abandonment” of Rush Island.¹

3. MPP further alleges that the retirement of Rush Island “caused the capacity shortfalls in the Midcontinent Independent System Operator (“MISO”) Planning Reserve Auction (“PRA”) for Zone 5 for the 2024/2025 Planning Year, which aggrieved Missouri Public Power and caused damages in an amount of Ten Million Fifty Seven Thousand Seven Hundred Sixteen Dollars (\$10,057,716).”²

4. Also on December 23, 2025, the Commission issued its *Order Giving Notice of Case Filing, Directing an Answer, a Staff Investigation, an Ameren Response, and Setting an Intervention Deadline*. Applications for intervention were due no later than January 9, 2026; no such applications were filed.

5. Following the filing of Ameren’s *Request for Extension of Time to File Answer and Request for Expedited Treatment*, the Commission ordered Ameren to file its Answer regarding this matter no later than February 13, 2026, and for Staff to file its report no later than March 13, 2026.

6. As detailed more thoroughly within this Staff Report, including the Staff Memorandum attached and incorporated herein as Appendix A, Staff is of the opinion that there is insufficient evidence to conclude that Ameren is in violation of applicable Commission orders, rules, regulations, Ameren’s approved tariffs, or statutes under the Commission’s jurisdiction.

¹ Verified Complaint and Motion for Expedited Treatment, pg. 1, para. 1.

² *Id*, pg. 2, para. 2.

**I. Alleged Violation of Ameren’s Tariff MO. PSC Schedule No. 6,
Original Sheet No. 102**

7. As noted in the Complaint, Tariff Sheet No. 102 was established by Commission order in Case No. ET-2013-0546, under Tracking No. JE-2013-0582 and became effective on June 30, 2013.³ The tariff language that Complainants allege Ameren violated states, under “Company Obligations,” 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.”

8. Complainants allege that, due to the early retirement of Rush Island, Ameren has violated Tariff Sheet No. 102. However, MPP has not provided sufficient evidence of any delay or interruption in service. While MPP alleges that the early retirement of Rush Island caused damages in the amount of \$10,057,716, there is not sufficient evidence provided of Ameren being unable to “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.”

9. While it is clear in the Commission’s Report and Order from Case No. EF-2024-0021 that Ameren Missouri was found by a federal court to have violated the Clean Air Act in regard to modifications made to Rush Island, it is not clear from the Complaint what, if any, delays the closing of Rush Island caused to the furnishing of service to Ameren’s customers.

³ *Id.*, pg. 4, para. 12. See also Exhibit A to Complaint.

II. Alleged violation of the Commission's May 21, 1971, Report and Order granting Ameren a Certificate of Convenience and Necessity to operate the Rush Island Energy Center.

10. MPP alleges that, by failing to acquire the necessary permits, Ameren violated the Commission's Report and Order granting Respondent a CCN to operate Rush Island.

11. MPP specifically highlights what it argues to be a Commission condition for granting the CCN. That alleged condition reads "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."

12. While the federal court established that Ameren failed to acquire the necessary permits for the operation of Rush Island following Ameren's modifications, the key term in the language quoted from Complainants is "the authority granted herein shall in no way be construed as authority for waiver of compliance..."

13. The Commission has never had the authority to waive any air or water quality control standards set by the States of Missouri, Illinois, or the Government of the United States. The operation of any utility generation asset is subject to the rules and regulations of the relevant government authorities.

14. The language from the Commission's May 21, 1971, Report and Order clearly states that, rather than approval being conditioned on Ameren complying with the relevant air or water quality controls, the Report and Order should not be construed as authority for Ameren to not comply with such relevant authorities. Instead of being a condition, the language appears to be clarifying in nature, ensuring that Ameren could not make a future argument that, because the Commission issued it a CCN, it was not

required to comply with the relevant air or water quality controls set by the States of Missouri, Illinois, or the Government of the United States.

15. Thus, it is Staff's opinion that Ameren did not violate the Commission's May 21, 1971, Report and Order granting Ameren a CCN to operate Rush Island.

III. Alleged Violation of the Commission's Report and Order in Case No. EF-2024-0021

16. MPP alleges that Ameren violated the Commission's Report and Order in Case No. EF-2024-0021 because "Ameren unlawfully, unreasonably and imprudently failed to obtain all necessary permits and approvals from all governmental and regulatory authorities having jurisdiction and failed to comply with applicable federal and state air quality control standards, causing the October 15, 2024 retirement or abandonment" of Rush Island.

17. Case No. EF-2024-0021 dealt with the securitization of costs associated with the retirement of Rush Island. As found by the Commission in its Report and Order:

The Rush Island plant is almost 50 years old and while Ameren Missouri will have to find solutions to a potential capacity shortage in the future, there is nothing in the record that would indicate it would have been a better decision to install FGD equipment on aging plant rather than retire it. Based on the evidence that is in the record, the Commission deems Ameren Missouri's decision to retire Rush Island between September 1, 2024, and October 15, 2024, reasonable and prudent.⁴

18. The Commission declined to rule on the prudence of Ameren's decisions leading up to its decision to retire Rush Island, noting that the issue at hand dealt only with the prudence of Ameren's decision to close Rush Island; the prudence regarding the

⁴ Case No. EF-2024-0021, Amended Report and Order, pgs. 34-35.

decisions Ameren made leading up to the decision to close Rush Island, and any potential harm arising from those decisions, should be litigated at a later date.⁵

19. It is clear that the Commission anticipated future litigation arising from the closure of Rush Island, but it is also clear that the Commission saw EF-2024-0021 as involving ONLY the decision to retire Rush Island. Any decisions beyond the choice to close Rush Island in order to comply with the decision of the federal court are to be resolved in other dockets, such as this one.

20. Seeing as how the Commission has already ruled that the decision to retire Rush Island early was reasonable and prudent, and with the Commission further specifying that its Report and Order in EF-2024-0021 ONLY dealt with that decision, it is Staff's opinion that Ameren did not violate the Commission's Report and Order in EF-2024-0021 due to any decisions made beyond the decision to retire Rush Island early.

IV. Allegations that the retirement of Rush Island “caused the capacity shortfalls in the Midcontinent Independent System Operator Planning Reserve Auction for Zone 5 for the 2024/2025 Planning Year.

21. While Ameren is a member of MISO, the Commission itself does not have regulatory authority over MISO; that authority rests with the Federal Energy Regulatory Commission (“FERC”) under the Sections 205 and 206 of the Federal Power Act.⁶

22. As detailed more fully in the attached Appendix A, Staff concludes that the retirement of Rush Island contributed to inadequate capacity to meet the Local Clearing Requirements (“LCRs”) in Local Resource Zone 5 (“LRZ 5”) for the fall and spring seasons in Planning Year “(PY)” 2024-2025, but Staff cannot conclude that the retirement of

⁵ *Id.*, pg. 36.

⁶ 16 USCA §§ 824d and 824e; see also Maine Pub. Utilities Comm'n v. FERC, 454 F.3d 278 (D.C. Cir. 2006).

Rush Island was the sole cause of the capacity deficiencies. Staff further concludes that inadequate capacity to meet the LCR for LRZ 5 caused increased clearing prices (i.e. seasonal Cost of New Entry (“CONE”)) in the 2024/2025 MISO PRA for LRZ 5. Staff additionally concludes that the increased clearing prices in the 2024/2025 MISO PRA for LRZ 5 could have caused MPP members to incur increased costs for the fall and spring seasons, but Staff will not speculate on, nor is there sufficient evidence to determine, the amount of the increased costs or to what degree the retirement of Rush Island contributed to the increased costs.

V. Conclusion

23. Having concluded its investigation, Staff is of the opinion that there is insufficient evidence to identify any violation by Ameren of applicable Commission orders, rules, regulations, Ameren’s approved tariffs or statutes under the Commission’s jurisdiction.

WHEREFORE, Staff respectfully submits this Staff Report for the Commission’s information and consideration.

Respectfully submitted,

/s/ Travis J. Pringle

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**Attorneys for Staff of the
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail, or First-Class United States Postal Mail, postage prepaid, on this 13th day of March, 2026, to all parties and/or counsel of record.

/s/ Ray Cunneen