

**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)
Certificates of Public Convenience and)
Necessity Authorizing it to Construct)
Renewable Generation Facilities and Battery)
Energy Storage Systems)

Case No. EA-2026-0183

**RESPONSE TO MOTION TO STRIKE PORTIONS OF SURREBUTTAL TESTIMONY
OF GEOFF MARKE, PH.D., ALTERNATIVE MOTION FOR LEAVE TO FILE
SURSURREBUTTAL TESTIMONY, AND MOTION FOR EXPEDITED TREATMENT**

COMES NOW the Office of the Public Counsel (the “OPC”) and provides its response in opposition to Union Electric Company d/b/a Ameren Missouri’s (“Ameren Missouri”) Motion to Strike Portions of Surrebuttal Testimony of Geoff Marke, Ph.D., Alternative Motion For Leave to File Sursurrebuttal Testimony, and Motion for Expedited Treatment (the “Motion to Strike,” Doc. 53). As explained more fully below, Dr. Geoff Marke’s Surrebuttal Testimony satisfies the definition of surrebuttal testimony in 20 CSR 4240-2.130(7)(D) in that it responds to the Rebuttal Testimony of Ms. Jessica Polk Sentell filed on behalf of Renew Missouri Advocates d/b/a Renew Missouri (“Renew Missouri”). In the portions of his Surrebuttal Testimony that Ameren Missouri seeks to strike, Dr. Marke takes no new position on whether the Public Service Commission of the State of Missouri (the “Commission”) should grant the Certificates of Convenience and Necessity (“CCNs”) Ameren Missouri seeks in this case, but simply rather highlights two recent developments that respond to statements Ms. Sentell made in her Rebuttal Testimony. The Commission should also deny Ameren Missouri’s alternative request to file sursurrebuttal testimony as such a filing is not contemplated by either the Commission’s rules or the orders issued in this matter and would unfairly hinder parties’ due process rights as it would allow only Ameren

Missouri a chance to respond to proper surrebuttal testimony.¹ In support, the OPC states as follows:

1. On May 22, 2026, Ameren Missouri filed an Application and supporting Direct Testimony requesting, in pertinent part, the Commission issue a CCN for Ameren Missouri to “construct, install, own, operate, maintain, and otherwise control and manage” three new battery energy storage systems (“BESS”), two new solar generation facilities, and a new switching station. (Appl. 1-3, Doc. 2).
2. On July 8, 2026, the Commission issued an Order Setting Procedural Schedule identifying the deadlines to file rebuttal and surrebuttal testimony, as well as other procedural deadlines. (Doc. 24). Subsequently, the Commission extended the deadline to file rebuttal testimony slightly. (Doc. 35). Importantly, neither the Order Setting Procedural Schedule nor the Order that extended the deadline to file rebuttal testimony contemplated a party filing additional pre-filed testimony in response to other parties’ surrebuttal testimony.
3. In accordance with the Order that extended the deadline to file rebuttal testimony, on August 11, 2026, the OPC, the Staff of the Commission (“Staff”), and Renew Missouri filed rebuttal testimony. (Docs. 37-40).
4. In accordance with the Procedural Schedule, on September 4, 2026, the OPC, Staff, and Ameren Missouri filed surrebuttal testimony. (Docs. 45-52).

¹ The OPC takes no position on Ameren Missouri’s request for expedited treatment as described in the Motion to Strike.

5. As a part of his Surrebuttal Testimony, Dr. Marke included, in pertinent part,² a section entitled “Updated Risk Factors” and “Executive Order 14420.” In the “Updated Risk Factors” section, Dr. Marke referenced an article that appeared in *The Wall Street Journal* that stated that “Big Tech’s AI off-balance sheet commitments exceeds \$3 trillion dollars.” (Marke Surrebuttal Test. 2-4 (citing Rudegeair, P. & P. Santilli (2026), Why Big Tech’s AI Spending Is \$3 Trillion Higher Than It Seems, *The Wall Street Journal*, <https://www.wsj.com/tech/ai/why-big-techs-ai-spending-is-3-trillion-higher-than-it-seems-e1067bb2>)). Dr. Marke included a graphic from the article and described how the article exemplified the risks associated with the investments. (*Id.*). In the “Executive Order 14420” section of his testimony, Dr. Marke detailed President Donald Trump’s Executive Order 14420, which “declar[ed] a national emergency to restrict or ban foreign-made electrical grid equipment from adversarial countries like China.” (*Id.* 4-5). Dr. Marke pointed out that this Executive Order may affect the cost of the projects at issue in this case. (*Id.* 5). He made clear that it does not change any of his recommendations. (*Id.*).
6. Subsequently, Ameren Missouri filed the Motion to Strike seeking to strike only the “Updated Risk Factors” and “Executive Order 14420” sections of Dr. Marke’s Surrebuttal Testimony. (Mot. Strike 2-3). Ameren Missouri argued that *The Wall Street Journal* article and the Executive Order came about after Dr. Marke filed his Rebuttal Testimony. (*Id.* 2). It argues that neither of the sections “reference another party’s rebuttal testimony to which those sections would be in response,” but that

² Dr. Marke included three other sections in his Surrebuttal Testimony. (*See* Marke Surrebuttal Test.). Ameren Missouri made clear in the Motion to Strike that it does not object to the remaining sections. (Mot. Strike 2).

“Dr. Marke plainly introduces new evidence and information in Surrebuttal in direct violation” of the Commission’s rule. (*Id.* 2-3).

7. Commission Rule 20 CSR 4240-2.130(7)(D) states in full that “[s]urrebuttal testimony shall be limited to material which is responsive to matters raised in another party’s rebuttal testimony.”
8. The Commission should not strike the identified two sections of Dr. Marke’s Surrebuttal Testimony as it is responsive to statements made by Ms. Sentell in her Rebuttal Testimony, as required by 20 CSR 4240-2.130(7)(D).
9. Specifically, in her Rebuttal Testimony, Ms. Sentell pointed out that Ameren Missouri’s Mr. Dixon stated in his Direct Testimony that “Ameren [Missouri] has seen a surge in demand from large load customers.” (Sentell Rebuttal Test. 4 (citation omitted)). She continued saying “[i]n short, Ameren [Missouri] needs more power, and they need it quickly to meet this growing demand.” (*Id.* 4). Ms. Sentell again referenced the “significant new load additions” in describing the BESS investments. (*Id.* 6). Dr. Marke’s reference to *The Wall Street Journal’s* statements regarding the risks associated with “Big-Tech’s AI off-balance sheet commitments” simply further shows that there is a risk associated with Ameren Missouri’s building generation to meet the demand associated with these customers. (Marke Surrebuttal Test. 2-4). This is consistent with the position taken in his Rebuttal Testimony.
10. Similarly, in her Rebuttal Testimony, Ms. Sentell referenced statements made in various sources that assert that solar generation and BESS are among the cheapest ways to add generation. (Sentell Rebuttal Test. 4, 7 (citations omitted)). Dr.

Marke's statements regarding Executive Order 14420 respond to these assertions by pointing to something that may affect whether they are and remain to be true. (See Marke Surrebuttal Test. 4-5 (pointing out that he believes "the probability is very high" that the projects will be impacted by the Executive Order and that they may be "more cost-prohibitive after this order is executed"))).

11. The Commission's Rule requires simply that surrebuttal testimony "be limited to material which is responsive to matters raised in another party's rebuttal testimony." 20 CSR 4240-2.130(7)(D). It does not require that a witness point to exactly what rebuttal testimony he or she is responding to. As shown above, clearly Dr. Marke's Surrebuttal Testimony responds to statements in Ms. Sentell's Rebuttal Testimony, thereby satisfying the Commission's rule and should not be stricken.
12. Regarding Ameren Missouri's alternative request for leave to file surrebuttal testimony, it is important to point out that Dr. Marke takes no new position in his Surrebuttal Testimony, including after his consideration of *The Wall Street Journal's* article or Executive Order 14420. Ameren Missouri had a chance to respond to Dr. Marke's position in its own surrebuttal testimony and three of its four witnesses did, in fact, do so. (See Wills Surrebuttal Test., Doc. 50; Wibbenmeyer Surrebuttal Test., Doc. 49; Dixon Surrebuttal Test., Doc. 47). Because Dr. Marke's Surrebuttal Testimony is proper surrebuttal, Ameren Missouri has had a chance to respond to Dr. Marke's position that is consistent between both his Rebuttal and Surrebuttal Testimonies, and neither the Order Setting Procedural Schedule nor the Order that extended the deadline to file rebuttal testimony contemplated a party filing pre-filed testimony in response to other parties'

surrebuttal testimony, the Commission should also deny Ameren Missouri's alternative request to file sursurrebuttal. To allow only Ameren Missouri to file sursurrebuttal testimony under these circumstances would unfairly hinder principles of fairness and other parties' due process rights.

WHEREFORE, the OPC respectfully requests that the Commission deny Ameren Missouri's Motion to Strike portions of Dr. Marke's Surrebuttal Testimony, as well as its alternative request to file sursurrebuttal testimony.

Respectfully submitted,

/s/ Lindsay VanGerpen
Lindsay VanGerpen (#71213)
Senior Counsel

Missouri Office of the Public Counsel
P.O. Box 2230
Jefferson City, MO 65102
Telephone: (573) 751-5565
Facsimile: (573) 751-5562
E-mail: Lindsay.VanGerpen@opc.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing will be emailed to all counsel of record this 11th day of September 2026.

/s/ Lindsay VanGerpen