

**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 NON-UNANIMOUS STIPULATION AND AGREEMENT

COMES NOW the Office of the Public Counsel (the “OPC”) and respectfully submits its Response to the Non-Unanimous Stipulation and Agreement filed by Union Electric Company d/b/a Ameren Missouri (“Ameren Missouri” or the “Company”), the Staff of the Missouri Public Service Commission (“Staff” and “Commission,” respectively), and Renew Missouri Advocates d/b/a Renew Missouri (“Renew” and collectively with Ameren Missouri and Staff, the “Signatories”) on September 25, 2026 (the “Non-Unanimous Stipulation and Agreement”). In support, the OPC states:

1. In the Non-Unanimous Stipulation and Agreement the Signatories agreed that on the terms provided for in the document, the Commission should grant Ameren Missouri six Certificates of Convenience and Necessity (“CCN”)—one for each of the following projects: (1) the Castle Bluff Battery Energy Storage System (“BESS”); (2) the Huck Finn BESS; (3) the Millcreek BESS; (4) the Quinn Switching Station; (5) the Tom Sawyer Solar Project; and (6) the Ringer Solar Project (collectively, the “Projects”). (Non-Unanimous Stip. & Agreement 3, Doc. 63). The OPC is not a signatory to the Non-Unanimous Stipulation and Agreement.
2. The OPC was able to work with Ameren Missouri, Staff, and Renew throughout the negotiations of the Non-Unanimous Stipulation and Agreement and, in part,

because of agreements reached in those negotiations does not object to the Non-Uniform Stipulation and Agreement. The OPC appreciates the effort all parties put into the settlement.

3. The OPC acknowledges that when determining whether it should issue a CCN the Commission typically confines its analysis to whether the project meets the five *Tartan* factors, which it has identified as: “(1) there must be a need for the service; (2) the applicant must be qualified to provide the proposed service; (3) the applicant must have the financial ability to provide the service; (4) the applicant’s proposal must be economically feasible; and (5) the service must promote the public interest.” *In re Appl. of Union Elec. Co. d/b/a Ameren Mo. for Permission & Approval & Certificates of Pub. Convenience & Necessity Authorizing it to Construct a New Generation Facility & Battery Energy Storage System*, Order Approving Stip. & Agreement & Granting Certificates of Convenience and Necessity 3-4, Mo. Pub. Serv. Comm’n Case No. EA-2025-0238.
4. The OPC further acknowledges that the Commission typically does not make cost allocation decisions or prudence determinations in CCN cases.¹
5. The OPC does not wish for its non-objection to the Non-Uniform Stipulation and Agreement to be construed as agreement with the other parties’ positions regarding the Commission’s *Tartan* factors analysis. It also does not wish for it to act as a waiver of the various concerns raised by it and members of the public

¹ The OPC acknowledges that 20 CSR 4240-20.045(2)(C) allows the Commission to “make a determination on the prudence of the decision to operate or construct an asset subject to the commission’s subsequent review of costs and applicable timelines” in deciding a CCN request. 20 CSR 4240-20.045(2)(C). However, Ameren Missouri did not request any prudence determination in this case, and instead, seeks only CCNs for the Projects. (*See generally* Appl., Doc. 2; Non-Uniform Stip. & Agreement 9).

throughout this process that may speak to the prudence of Ameren Missouri's decision to move forward with the Projects at this time and under these conditions.

6. As explained in the attached memorandum, authored by the OPC's Dr. Geoff Marke and Mr. Jordan Seaver, the OPC believes that only a single specific need exists to build these Projects now, namely that they will assist Ameren Missouri in meeting the generation needs and clean energy goals of the large load customers that the Company asserts intend to locate within its service territory in a short timeframe. (*See, e.g.*, Michels Direct Test. 3, Doc. 8 (stating that Ameren Missouri changed its Preferred Resource Plan in part because it "had experienced a surge in interest from [large load customers] locating in Ameren Missouri's service territory and had signed construction agreements relating to over two gigawatts of new load."); Staff Rebuttal Report 3-4, Doc. 37 (stating "Staff's finding of need . . . depends principally upon whether the large loads projected by Ameren Missouri are sufficiently likely to materialize and whether the customers responsible for those loads will provide sufficient renewable resources or renewable attributes to support their own usage" and stating, in part that, "Staff's analysis assumes that the projected loads are sufficiently probable to warrant action now, based upon the signed ESA and the construction lead time required for additional resources.")). Therefore, although the OPC believes that the *Tartan* factor of need has been met, it does so with a narrow understanding of that determination.
7. Regarding cost allocation decisions or prudence determinations, Ameren Missouri specifically agreed in the Non-Unanimous Stipulation and Agreement that "approval of the CCNs does not determine prudence, cost allocation (including the

propriety of allocation to large load customers), Plant-in-Service Accounting (“PISA”) eligibility, Renewable Energy Standard Rate Adjustment Mechanism (“RESRAM”) eligibility, rate-base treatment, rate recovery, or the amount, if any, ultimately included in customer rates.” (Non-Unanimous Stip. & Agreement 9-10). Rather, all Signatories agree that these issues are “‘preserved’ for future proceedings.” (*Id.* 9). As alluded to in Mr. Seaver and Dr. Marke’s pre-filed testimonies and in the attached Memorandum, the OPC will likely argue in a future rate case when Ameren Missouri seeks recovery of the Projects that the large load customers that created the need for the Projects bear the full cost of them.

8. Further, the OPC acknowledges that Ameren Missouri did not request that the Commission make a prudence determination regarding these Projects in this case and that the Commission typically does not make such a determination without a request to do so. A number of concerns have arisen throughout this process regarding the Projects, including, but not limited to, safety concerns associated with the batteries themselves, environmental concerns associated with water runoff, the effects of potential fires, the secondary effects of the Projects on property values and local roads, and accusations that Ameren is overpaying market value to secure property. The OPC wishes to make clear that its non-objection to the Non-Unanimous Stipulation and Agreement does not constitute an agreement that these concerns have been satisfied or that they are illegitimate. Should it come to light that Ameren Missouri has acted imprudently in deciding to move forward with these Projects under these conditions, the OPC will suggest prudence disallowances in future rate cases.

9. To ensure that the record is clear regarding the OPC's non-objection to the Non-
Unanimous Stipulation and Agreement regarding the construction of the Projects
at this time and to ensure that all parties are aware of the possibility of OPC's
arguments in the future, the OPC files this response and attached memorandum.

WHEREFORE, the OPC respectfully requests that the Commission accept this Response
and the attached memorandum.

Respectfully submitted,

/s/ Lindsay VanGerpen
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CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing will be emailed to all counsel of record this
6th day of October 2026.

/s/ Lindsay VanGerpen