

**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 of a Certificate of Public Convenience and       )  
Necessity Authorizing it to Offer a Pilot Distributed       )  
Solar Program and File Associated Tariff                        )

**File No. EA-2016-0208**

**STAFF’S INITIAL BRIEF**

**COMES NOW** the Staff of the Missouri Public Service Commission (“Staff”), by and through undersigned counsel, and files its initial brief supporting Missouri Public Service Commission (“Commission”) approval of the application for Certificate of Convenience and Necessity (“CCN”) submitted by Union Electric Company d/b/a Ameren Missouri (“Ameren”).

**I. Overview**

This case is a request for a CCN for Ameren to construct and own certain distributed solar generation facilities on customer property located within Ameren’s service territory (“Partnership Pilot”). These Partnership Pilot facilities would be located on three to five customer sites,<sup>1</sup> consist of no more than 2 megawatts<sup>2</sup> (“MW”), and would be capped at a capital investment level of \$10 million.<sup>3</sup> Furthermore, Ameren may spend no more than \$2.20/watt on each facility, with customers participating in the partnership covering any costs in excess of \$2.20/watt, and the ability to cover more than required, if they desire.<sup>4</sup> Although Ameren has indicated interest from customers<sup>5</sup>,

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<sup>1</sup> Tr. Vol. 1, 75:13-14.

<sup>2</sup> Tr. Vol. 1, 75:15.

<sup>3</sup> Non-Unanimous Stipulation and Agreement, pg. 2.

<sup>4</sup> Id.

currently, Ameren has not provided final locations. To facilitate Ameren moving forward with this pilot partnership, the signatories to Non-unanimous Stipulation and Agreement (“Stipulation”) agreed to an approval site verification process with specific time frames for parties to make recommendations to the Commission. Paragraphs 4, 5, and 8 of the Stipulation, and the incorporated Appendix A outline this process. This procedure allows Ameren to begin advertising and offering the program, but requires Ameren to provide all necessary information required under 4 CSR 240-3.105 and RSMo 393.170, and allow all parties to evaluate the final site location according to the considerations and minimum criteria outlined. That Stipulation also provides for Ameren to provide regular reporting on specified learning objectives in order to facilitate better understanding of the Partnership Project’s success with participating customers, suitability of Ameren’s service area for distributed generation, and impact of the distributed generation on Ameren’s distribution infrastructure requirements, rate base, and customers.

For reasons that will be provided below, the Commission should approve Ameren’s application for a CCN as modified by the Stipulation because this pilot partnership is necessary and convenient for the public service within the meaning of RSMo section 393.170 as recently interpreted by this Commission in its Report and Order in Missouri Public Service Commission Case No. EA-2015-0256<sup>6</sup> (“Greenwood Decision”). In light of the Greenwood Decision concerning a solar pilot program, the evidence establishes there is a need for this service, Ameren is qualified to provide the

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<sup>5</sup> Tr. Vol. 1, 197:16-21.

<sup>6</sup> Missouri Public Service Commission Case No. EA-2015-0256, In the Matter of the Application of KCP&L Greater Missouri Operations Company for Permission and Approval of a Certificate of Public Convenience and Necessity Authorizing it to Construct, Install, Own, Operate, Maintain and Otherwise Control and Manage Solar Generation Facilities in Western Missouri, *Report and Order* Issued March 2, 2016.

service, Ameren has the financial abilities to provide the service, the pilot partnership is economically feasible, and the pilot partnership promotes the public interest. Staff recommends the Commission approve the Stipulation without modification, and granted Ameren's request for a CCN.

**II. Does the evidence establish that Ameren Missouri's proposed project as presented in the *Non-unanimous Stipulation and Agreement* (now a Joint Position statement), for which it seeks a CCN, "necessary or convenient for the public service" within the meaning of section 393.170, RSMo?**

Necessary and convenient are the cornerstones for the Commission's approval of an application for a CCN. However, unlike the Office of Public Counsel's ("OPC") narrow interpretation that necessary means a project should be required for capacity needs or renewable energy standard ("RES") compliance,<sup>7</sup> the Commission's discretion and authority in granting a CCN has been broadly upheld in case law.<sup>8</sup>

The PSC has authority to grant certificates of convenience and necessity when it is determined after due hearing that construction is "necessary or convenient for the public service." § 393.170.3. The term "necessity" does not mean "essential" or "absolutely indispensable", but that an additional service would be an improvement justifying its cost. *State ex rel. Beaufort Transfer Co. v. Clark*, 504 S.W.2d at 219...Furthermore, it is within the **discretion** of the Public Service Commission to determine when the **evidence indicates the public interest would be served** in the award of the certificate. *Id.* at 392.<sup>9</sup> (emphasis added)

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<sup>7</sup> Office of Public Counsel Statements of Position, pg. 6, Tr. Vol. 1, 173:13-25, 174:4-8.

<sup>8</sup> See *generally* *State ex rel. Beaufort Transfer Co. v. Clark*, 504 S.W.2d 216 (Mo. Ct. App. 1973), *State ex rel. Inman Freight Sys. v. Pub. Serv. Comm'n*, 600 S.W.2d 650 (Mo. Ct. App. 1980), *State ex rel. Ozark Elec. Co-op. v. Pub. Serv. Comm'n*, 527 S.W.2d 390 (Mo. Ct. App. 1975), *State ex rel. Pub. Water Supply Dist. No. 8 of Jefferson Cty. v. Pub. Serv. Comm'n*, 600 S.W.2d 147, 153 (Mo. Ct. App. 1980)

<sup>9</sup> *State ex rel. Intercon Gas, Inc. v. Pub. Serv. Comm'n of Missouri*, 848 S.W.2d 593, 597-98 (Mo. Ct. App. 1993)

In evaluating the evidence presented in an application for a CCN, the Commission has commonly relied upon the Tartan factors, a five part balancing test presented in In Re Tartan Energy.<sup>10</sup> The Tartan factors are generally stated as:

1. Is there a need for service?
2. Is the applicant qualified to provide the service?
3. Does the applicant have the financial ability to provide the service?
4. Is the applicant's proposal economically feasible?
5. Does the service promote the public interest?

For reasons discussed below, the evidence shows that all the above factors can be answered in the affirmative, and so therefore, the Partnership Pilot can be determined necessary and convenient under 393.170.

#### **1. The evidence establishes there is a need for this project.**

Ameren has demonstrated a need for the Partnership Pilot as modified by the Stipulation. For purposes of certificates of convenience and necessity, necessity or need means the service is "highly important to the public convenience and desirable for the public welfare."<sup>11</sup> Missouri's generation fleet is comprised of mostly coal burning facilities. Several expert witnesses testified solar will be a part of a diverse, renewable generation fleet under current and future regulations.<sup>12</sup> Missouri's Comprehensive State Energy Plan and the United States Code, 16 U.S.C. 46, Public Utility Regulation Policies ("PURPA") encourages state officials and utilities to integrate more renewable resources in producing energy.

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<sup>10</sup> 3 Mo.P.S.C.3d 173, 177 (1994)

<sup>11</sup> State ex rel. Missouri Kansas and Oklahoma Coach Lines, Inc., et al. v Public Service Commission, 179 S.W.2d 132, 136 (Mo. App. 1944).

<sup>12</sup> Tr. Vol. 1, 83:9-23, 127:18-22

Although this Partnership Pilot is not intended for the purpose of regulatory compliance, lessons learned from the project could lead to increased distributed renewable generation in Ameren's territory for RES or other compliance purposes. Similarly, although the CPP is currently stayed if upheld, Ameren will need more renewable generation to meet the CPP, a fact that even OPC did not dispute.<sup>13</sup> Ameren witness Mr. Barbieri testified that Ameren believes there will be some federal renewable energy standard that will require Ameren to build more renewable generation for compliance.<sup>14</sup> This Partnership Pilot, although not being built for compliance with any specific regulation, the knowledge and experience gained could lead to smaller scale distributed renewable generation for future compliance. The recent Report and Order in Missouri Public Service Commission Case No. EA-2015-0256<sup>15</sup> ("Greenwood Decision") supported future compliance with environmental regulation, including the CPP, as a justification behind the need for renewable projects.<sup>16</sup>

The Greenwood decision indicated the Commission's interpretation that in situations in which hands on experience would be a reasonable method to gain knowledge for future facilities or decision-making, the need for the hands on experience to gain the knowledge satisfies the first Tartan factor.<sup>17</sup> Ameren currently has minimal utility-owned distributed solar generation. Studying distributed generation in a small pilot program allows Ameren to determine benefits among diversification between

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<sup>13</sup> Tr. Vol. 1, 197:10-15.

<sup>14</sup> Surrebuttal Testimony of William J. Barbieri, pg. 6, Tr. Vol. 1, 83:9-15

<sup>15</sup> Missouri Public Service Commission Case No. EA-2015-0256, In the Matter of the Application of KCP&L Greater Missouri Operations Company for Permission and Approval of a Certificate of Public Convenience and Necessity Authorizing it to Construct, Install, Own, Operate, Maintain and Otherwise Control and Manage Solar Generation Facilities in Western Missouri, *Report and Order* Issued March 2, 2016.

<sup>16</sup> Id. at 14

<sup>17</sup> Id.

centralized and distributed generation and benefits or impacts on the grid. Ameren witness, Mr. Harding testified that modeling distributed solar generation on simulated runs<sup>18</sup> to study impacts only produces speculative results.<sup>19</sup> A small scale, limited investment is a reasonable way to investigate distributed solar generation and gain knowledge, before expanding a service on a large scale and large investment level. Specifically, Ameren has agreed to use the opportunity of this pilot to:

- Gain insight and knowledge about the unique benefits and challenges of distributed generation in general and, more specifically, benefits and challenges related to the deployment of Ameren Missouri-owned solar generation on properties owned by Ameren Missouri customers.

- Learn about distributed generation, how it impacts the Company's electrical grid and to test the level of customer interest in sharing in the investment necessary to install this type of renewable generation.

- Explore which types of customers are most interested in the program, and under what terms they would participate.

- Consider how offering a lease payment, bill credit, or other form of compensation to potential site hosts would influence future program participation and cost.

- Gain an understanding of how distributed generation functions on an electrical grid designed primarily for centralized generation, solar generation, as well as the impacts of facility placement on the grid (e.g., impacts on transformers, substations, and line losses) and the value to the grid of distributed generation.

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<sup>18</sup> Mr. Harding defined a simulated run as "putting in any amount of variables that you ...want to assume into a model and then running the simulation to see what the output would be." Tr. Vol. 1, 63:6-9.

<sup>19</sup> Tr. Vol. 1, 63:6-13.

- Ameren Missouri should also be able to determine if there are any specific financial benefits from this form of solar generation or if utility-scale central station generation will to provide a more economic means of solar electrical supply.<sup>20</sup>

In light of the recent policy guidance in the Greenwood decision, Ameren has demonstrated a need for the learning opportunities that will be provided by this Pilot Partnership .

**2. Ameren is qualified to provide the proposed project services.**

No party to this instant action argues that Ameren is not qualified to provide this Partnership Pilot. Ameren has constructed and operated electrical generation facilities of many types over the years.

**3. Ameren has the financial ability to provide the project services.**

Ameren's financial ability to provide this Partnership Pilot program is not at issue in this case. The cap on this investment is 10 million,<sup>21</sup> which is a small investment, compared to the size of Ameren's overall rate base.

**4. Ameren's proposed project is economically feasible.**

Economic feasibility, as applied to this pilot program, must be viewed in light of the Greenwood decision. In a pilot project, like the one at issue in the Greenwood decision and the Partnership Pilot here, the point is not to provide the cheapest power possible.<sup>22</sup> The learning opportunities discussed above are also important considerations in determining economic feasibility. While not easily quantifiable, the

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<sup>20</sup> Non-unanimous Stipulation and Agreement, Appendix B.

<sup>21</sup> Non-unanimous Stipulation and Agreement, pg. 2

<sup>22</sup> Missouri Public Service Commission Case No. EA-2015-0256, In the Matter of the Application of KCP&L Greater Missouri Operations Company for Permission and Approval of a Certificate of Public Convenience and Necessity Authorizing it to Construct, Install, Own, Operate, Maintain and Otherwise Control and Manage Solar Generation Facilities in Western Missouri, *Report and Order* Issued March 2, 2016, pg. 15.

value provided by the stringency of the stipulated learning objectives does balance the cost of the project in the context of a limited pilot program. Under this view, the Partnership Pilot is economically feasible.

Ameren witness Mr. Barbieri testified that the increase to the average residential customer would be 42 cents per customer, per year.<sup>23</sup> With the ability for participating customers to contribute more than just excess costs,<sup>24</sup> that 42 cents could be even lower. Furthermore, any project costs exceeding \$2.20/watt must be borne by the participating partner.

OPC challenges the \$2.20/watt figure presented in this case, with Mr. Burdge stating in testimony, “the number is presented without justification.”<sup>25</sup> Ameren experts, during the technical conferences, in their pre-filed testimony,<sup>26</sup> and in the hearing, explained how Ameren arrived at the \$2.20/watt figure. Staff exhibit 103 and 104 are cost justifications provided to Staff via Data Requests that Staff submitted as part of its evaluation of the costs and benefits of this program. Staff exhibit 104 in particular is a compilation of request for proposals (“RFP”) that Ameren solicited in 2015, only a year prior, for construction of a solar generation project.<sup>27</sup> Ameren based its initial cost per watt figure on the lowest cost winning RFP.<sup>28</sup> Staff’s expert Ms. Eubanks testified that upon review of bid responses in previous solar cases, a cost of \$2.20/watt was supported.<sup>29</sup>

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<sup>23</sup> Tr. Vol. 1, 80:6-13.

<sup>24</sup> Stipulation and Agreement, pg. 2

<sup>25</sup> Rebuttal Testimony of J. Richmond Burdge, pg. 8

<sup>26</sup> Direct Testimony of Michael W. Harding, pg. 3.

<sup>27</sup> Tr. Vol. 1, 61:10-16.

<sup>28</sup> *Id.* at 61:17-20.

<sup>29</sup> See Missouri Public Service Commission Case No. EA-2015-0256, In the Matter of the Application of KCP&L Greater Missouri Operations Company for Permission and Approval of a Certificate of Public Convenience and Necessity Authorizing it to Construct, Install, Own, Operate, Maintain and Otherwise



In opposition to Staff's actions, OPC submitted no data requests to any party requesting a justification of the \$2.20/watt figure.<sup>30</sup> OPC witness, Mr. Burdge, conceded on the stand that his statement that there was no justification behind the cost per watt "could perhaps be considered" an assumption.<sup>31</sup> Furthermore, when preparing its pre-filed testimony the Office of Public Counsel did not know what the impact would be, and performed no analysis to evaluate impacts on ratepayers.<sup>32</sup>

*Intercon Gas* provides the Commission with the directive that necessity means, "an additional service would be an improvement justifying its cost."<sup>33</sup> For 42 cents a customer a year, Ameren will gain knowledge and insight into distributed solar generation. The public will also benefit from the knowledge and experienced gained during this Partnership Pilot. Not only will Ameren benefit from this knowledge, but because of the required reports, other parties and the Commission will as well. Staff, parties, and the Commissioners will have access to the reports, and the knowledge contain therein, which will develop understanding of benefits and costs associated with similar programs, and allow Staff, other parties, and the Commission to make more informed recommendations and decisions. Appendix B of the Stipulation outlines required reports Ameren must file regarding learning opportunities and answers to key

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Control and Manage Solar Generation Facilities in Western Missouri, Missouri Public Service Commission Case No. EA-2014-0136 In the Matter of the Application of Union Electric Company d/b/a Ameren Missouri for Permission and Approval of a Certificate of Public Convenience and Necessity Authorizing it to Construct, Install, Own, Operate, Maintain and Otherwise Control and Manage Solar Generation Facilities, and Missouri Public Service Commission Case No. EA-2015-0273 In the Matter of the Application of Union Electric Company d/b/a Ameren Missouri for Permission and Approval and a Certificate of Public Convenience and Necessity Authorizing it to Construct, Install, Own, Operate, Maintain and Otherwise Control and Manage Solar Generation Facilities in Montgomery County, Missouri

<sup>30</sup> Tr. Vol. 1, 190:7-11.

<sup>31</sup> Tr. Vol. 1, 194:10-25, 195:1.

<sup>32</sup> Tr. Vol. 1, 195:8-11.

<sup>33</sup> State ex rel. Intercon Gas, Inc. v. Pub. Serv. Comm'n of Missouri, 848 S.W.2d 593, 597-98 (Mo. Ct. App. 1993)

questions, which will continue for the life of the facility.<sup>34</sup> Ameren provided to Staff, marked as Staff Exhibit 105, a document containing evaluations of benefits that could be gained from adding distributed generation. Additionally, Ameren expects to learn insight into:

- Benefits to locating generation closer to load<sup>35</sup>
- The effect of distributed generation on preventing line losses<sup>36</sup>
- How to handle intermittency of renewables on the grid<sup>37</sup>
- Micro grids and reliability<sup>38</sup>
- Benefits and costs to having generation on the distribution system versus the transmission system<sup>39</sup>
- How distributed generation can reduce congestion points<sup>40</sup>

A limited pilot program, as proposed in this case, allows Ameren to increase its knowledge and experience with distributed solar generation, and evaluate now, at a lower, capped cost, without immediate pressure for regulatory compliance, the benefits of distributed solar generation and determine if distributed solar generation is an economically, beneficial future generation method. This prevents Ameren from investing in a large-scale project, without sufficient information and experience, which could prove to be costly to the ratepayers. The knowledge and experience gained, along with the low cost to ratepayers, make this project economically feasible.

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<sup>34</sup> Non-unanimous Stipulation and Agreement, pg. 3, Appendix B

<sup>35</sup> Tr. Vol. 1, 108:15-25.

<sup>36</sup> *Id.*

<sup>37</sup> Tr. Vol. 1, 109:1-9.

<sup>38</sup> *Id.* at 109:10-15.

<sup>39</sup> Direct Testimony of William J. Barbieri, pg. 8.

<sup>40</sup> Surrebuttal Testimony of William J. Barbieri, pg. 5, Tr. Vol. 1, 141:1-13.

## **5. Ameren's proposed project promotes the public interest.**

The Partnership Pilot promotes the public interest by allowing Ameren and its ratepayers to benefit from the knowledge and experience gained on this limited scale, which could facilitate broader cost-effective deployment of renewable generation, as discussed in the Greenwood decision.

The Greenwood decision states:

GMO's customers and the general public have a strong interest in the development of economical renewable energy sources to provide safe, reliable, and affordable service while improving the environment and reducing the amount of carbon dioxide released into the atmosphere. It is clear, solar power will be an integral part of this development, building a bridge to our energy future. The Commission can either act to facilitate that process or temporarily hinder it. GMO's proposed pilot solar plant will do the former, and thus it will promote the public interest.<sup>41</sup>

Ameren customers have the same strong interest as GMO's for safe, reliable, affordable service that reduces the amount of carbon dioxide and improves the environment.<sup>42</sup> Ameren will likely also need solar generation as a part of meeting future renewable energy requirements.<sup>43</sup> While this pilot itself is not the least-cost means of complying with the Missouri RES, nor is intended for that purpose, the learning it facilitates could be leveraged in deploying additional projects for future compliance with the RES or other requirements. The same reasoning applied in the Greenwood decision holds true in this case.

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<sup>41</sup> Missouri Public Service Commission Case No. EA-2015-0256, In the Matter of the Application of KCP&L Greater Missouri Operations Company for Permission and Approval of a Certificate of Public Convenience and Necessity Authorizing it to Construct, Install, Own, Operate, Maintain and Otherwise Control and Manage Solar Generation Facilities in Western Missouri

<sup>42</sup> Tr. Vol. 1, 127:9-17.

<sup>43</sup> Id. at 127:18-22.

After weighing the evidence evaluated under the Tartan factors, this pilot as modified by the Stipulation demonstrates a need, can be determined as economically feasible, and therefore, is in the public interest.

**III. Do the terms contained in the *Non-unanimous Stipulation and Agreement* (now a Joint Position statement) present a plan meeting the requirements set forth in the CCN statute, section 393.170 RSMo and does the evidence demonstrate the company has provided the information required to comply with the Commission's rules at 4 CSR 240-3.105?**

OPC argues that this application does not meet the requirements to be granted a CCN as Ameren has allegedly not provided sufficient information for the Commission to make an informed decision. OPC, to make this argument, ignores the processes and reporting requirements that Staff and other parties have included in the Stipulation to ensure oversight and review of the site selection process, and ensure all information required under 393.170<sup>44</sup> and 4 CSR 240-3.105<sup>45</sup> is provided to the Commission.

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<sup>44</sup> 393.170 states

No gas corporation, electrical corporation, water corporation or sewer corporation shall begin construction of a gas plant, electric plant, water system or sewer system without first having obtained the permission and approval of the commission.

2. No such corporation shall exercise any right or privilege under any franchise hereafter granted, or under any franchise heretofore granted but not heretofore actually exercised, or the exercise of which shall have been suspended for more than one year, without first having obtained the permission and approval of the commission. Before such certificate shall be issued a certified copy of the charter of such corporation shall be filed in the office of the commission, together with a verified statement of the president and secretary of the corporation, showing that it has received the required consent of the proper municipal authorities.

3. The commission shall have the power to grant the permission and approval herein specified whenever it shall after due hearing determine that such construction or such exercise of the right, privilege or franchise is necessary or convenient for the public service. The commission may by its order impose such condition or conditions as it may deem reasonable and necessary. Unless exercised within a period of two years from the grant thereof, authority conferred by such certificate of convenience and necessity issued by the commission shall be null and void.

<sup>45</sup> 4 CSR 240-3.105 requires in pertinent, that an application for a CCN for electrical production facilities to include 1) a description of the route of construction 2) the plans and specifications for the complete construction project and the estimated cost of the construction project or a statement of the reasons the information is currently unavailable, 3) plans for financing and 4) evidence of approval of affected governmental bodies when applicable.

Ameren will not begin construction of these facilities without approval of the Commission. The due hearing required by 393.170 is the action before the Commission. There is also an opportunity for recommendations regarding site selection to be filed and presented to the Commission according to Appendix A of the Stipulation.

OPC mistakenly relies on StopAquila.Org v. Aquila, Inc<sup>46</sup> to state that a “blanket” CCN is inappropriate and that Ameren must file a new application for a CCN with each solar facility. OPC, in relying on *StopAquila*, ignores more recent Commission decisions that distinguish this Partnership Pilot solar program from the natural gas-fired generating facility at issue in *StopAquila*. The Commission decision in Case No. EA-2011-0368,<sup>47</sup> (“Smart Grid decision”) is more appropriately applied to Ameren’s CCN application, than a comparison with the decision regarding Aquila’s CCN application in the *StopAquila* case. In the Smart Grid decision, Kansas City Power and Light (“KCPL”) applied to operate multiple small solar energy production facilities in the SmartGrid Project Area in Kansas City, Missouri. KCPL did not specify the exact location for each facility.<sup>48</sup> Staff, much like OPC’s argument in this current case, argued KCPL must receive approval for each generating facility under the *StopAquila* case.<sup>49</sup> The Commission found Staff’s argument to be too narrow; stating the purpose of 393.170 is to protect the public interest.<sup>50</sup> The potential for public interest infringement in the placement of the natural gas-fired turbine electrical generating plant at issue in

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<sup>46</sup> 180 S.W.3d 24, 45 (Mo. App. W.D. 2005)

<sup>47</sup> In the Matter of the Application of Kansas City Power & Light Company for Permission and Approval and a Certificate of Public Convenience And Necessity Authorizing It to Acquire, Construct Install, Own, Operate, Maintain, and Otherwise Control and Manage Electrical Production and Related Facilities in the Smart Grid Project Area of Jackson County, Missouri

<sup>48</sup> Id.

<sup>49</sup> Id.

<sup>50</sup> Id.

*StopAquila* is not present in the placement of solar arrays on a few buildings.<sup>51</sup> The Commission also found Staff's approach of having the utility apply and litigate a new application for a CCN each time it identified a new structure to build a solar production facility to be a waste of resources for both the utility and the Commission.<sup>52</sup> By specifying the parameters of the area in which it intends to install the solar facilities, the Commission found KCPL provided the Commission with sufficient information to satisfy the requirements of 393.170.<sup>53</sup>

Ameren's Partnership Pilot is almost identical to the situation presented in the Smart Grid decision. Ameren will install solar production facilities on customer owned property. Ameren is not siting a natural gas generating plant, like in *StopAquila*, which distinguishes it, as the same level of public interest concerns are not present. Ameren, much like KCPL in the Smart Grid decision, has identified parameters in Appendix B of the Stipulation. In addition, the public interest is well guarded in this case, as Staff and other parties will evaluate the sites to ensure they meet the parameters outlined in Appendix A. OPC's argument that Ameren must come in for each site facility, is nearly identical to Staff's in the Smart Grid decision, which the Commission found to be overly narrow and unpersuasive. The lack of specific locations should not bar Ameren from being granted a CCN.

Ameren will furnish the information required by 393.170 and 4 CSR 240-3.105 well before any construction begins. The Commission should grant the CCN, conditioned upon Ameren meeting the requirements outlined in Appendix A, which would satisfy 393.170 and 4 CSR 240-3.105.

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<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

**IV. Is the company's plan outlining treatment of the proposed facilities at the end of 25 years lawful under 393.190 RSMo?**

393.190 provides that

No gas corporation, electrical corporation, water corporation or sewer corporation shall hereafter sell, assign, lease, transfer, mortgage or otherwise dispose of or encumber the whole or any part of its franchise, works or system, necessary or useful in the performance of its duties to the public, ... without having first secured from the commission an order authorizing it so to do.

Nothing in this subsection contained shall be construed to prevent the sale, assignment, lease or other disposition by any corporation, person or public utility of a class designated in this subsection of property which is not necessary or useful in the performance of its duties to the public, and any sale of its property by such corporation, person or public utility shall be conclusively presumed to have been of property which is not useful or necessary in the performance of its duties to the public

Nothing in the Application, Stipulation, or testimony indicates that Ameren Missouri is not obligated to fully comply with this provision. To the extent necessary, Ameren will seek Commission approval before allowing a customer to purchase the facility, renew the lease, or have the facility removed from the property.<sup>54</sup> Considering that average useful life of a solar facility is between 25-30 years,<sup>55</sup> the issue may be moot upon the expiration of the 25-year term contract. However, Staff construes nothing in the Stipulation from relieving Ameren of its obligation to seek Commission approval if this situation arises, and Ameren agrees.<sup>56</sup> Staff does not oppose inclusion of language in any Commission order approving the Stipulation clarifying this point.

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<sup>54</sup> Position Statement of Ameren Missouri, pg. 3

<sup>55</sup> Tr. Vol. 1, 65:15-17

<sup>56</sup> Id. at 77:18-25, 78:1-2

**V. The Commission should not modify the Stipulation and Agreement by adding lease payments.**

Walmart, Inc. and Brightergy, LLC did not oppose the Stipulation, but did put forth policy arguments regarding lease arrangements. While Staff is sensitive to their concerns, Staff also realizes that this program is not designed to fit every commercial and industrial customer of Ameren's needs.<sup>57</sup> Ameren has represented that certain customers approached Ameren, with the desire to participate without a lease.<sup>58</sup> Adding a lease component would only increase costs for customers if the lease payment was not included under the \$2.20/watt limit, or lessen benefits if it is included, disrupting the balance struck by the Stipulation.<sup>59</sup> Staff supports approving the Stipulation and Agreement as negotiated and executed.

**VI. Conclusion**

This pilot partnership is necessary and convenient for the public service within the meaning of RSMo section 393.170. Ameren has demonstrated the Partnership Pilot is needed and economically feasible, as those terms are defined by the Greenwood Case. The Partnership Pilot promotes the public interest allowing Ameren and its ratepayers to benefit from the knowledge and experience gained on this limited scale, which could facilitate broader cost-effective deployment of renewable generation, as discussed in the Greenwood decision. Before any ground is broken, Ameren will have provided all required information to Commission and provided Staff and other parties with an opportunity for review, input, and Commission determination. The Commission should,

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<sup>57</sup> Id. at 134:9-11,

<sup>58</sup> Surrebuttal Testimony of Claire M. Eubanks, PE, pg. 2

<sup>59</sup> Id.



as it did in the Smart Grid decision, grant the CCN with the conditions set forth in the Stipulation as specified parameters in which Ameren will install the facilities.

**WHEREFORE**, Staff respectfully requests the Commission approve Ameren's Application for a Certificate of Convenience and Necessity as modified by the Non-Unanimous Stipulation and Agreement.

Respectfully submitted,

**/s/ Nicole Mers**

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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 4<sup>th</sup> day of November, 2016, to all counsel of record.

**/s/ Nicole Mers**