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 Approval of a Tariff Setting a Rate for Electric Vehicle Charging Stations	))))	**File No. ET-2018-0132**

REPLY BRIEF OF SIERRA CLUB & NATURAL RESOURCES DEFENSE COUNCIL

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I. Introduction

Sierra Club and the Natural Resources Defense Council ("NRDC") file this reply brief in support of Ameren Missouri's ("Ameren" or the "Company") request for approval of tariff sheets and creation of accounting authority to support the Charge Ahead – Electric Vehicles and Charge Ahead – Business Solutions programs (collectively, "Charge Ahead" or the "Program").[1] Charge Ahead is a critical effort to support and accelerate the market for electric vehicles ("EVs"), a technology which is in the public interest and will benefit all Ameren customers.

II. Discussion

In our initial brief, Sierra Club and NRDC urged this Commission to approve the Charge Ahead program as a "no-regrets" opportunity for "learning-by-doing."[2] We made that recommendation for several reasons. First, the program addresses key barriers to transportation electrification and targets use of market-ready electric technologies. Second, the unmet markets for EV charging and electrified materials handling and airport ground support equipment show that there is a clear demand and need for Charge Ahead. Finally, it is clear that the program is well-designed to deliver the benefits on which it is premised and which far outweigh its costs. Not one of these conclusions was called into any doubt in the initial briefs filed by the two parties that oppose Charge Ahead: the Office of Public Counsel ("OPC") and Commission Staff ("Staff").

In this reply brief, we address certain arguments made by OPC and Staff in opposition to Charge Ahead. Specifically, we address: OPC's assertion that the program must either support anticipated market need or create new market demand, but cannot possibly do both; Staff's

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[1] Application, Request for Variance, and Request for Accounting Authority at 1, File No. ET-2018-0132 (filed February 22, 2018) [hereinafter: "Application"]. The company's application is supported by the testimony of Tom Byrne (Exhibit 1), Patrick Justis (Exhibits 2, 3), David Pickles (Exhibits 4, 5), and Steven M. Wills (Exhibits 6, 7).

[2] Initial Post-Hearing Brief of Sierra Club & Natural Resources Defense Council at 1-2 [hereinafter "Sierra Club & NRDC Initial Brief"].

misguided conclusion that the existence of complementary funding for transportation electrification projects via the Volkswagen Environmental Mitigation Trust renders Charge Ahead entirely redundant; and Staff's and OPC's respective alternate proposals for either a workgroup process or a performance-based cost-recovery approach. We respectfully ask that the Commission disregard these arguments as contrary to the record and unreasonable, and further urge the Commission to reject the alternate proposals. We address each concern in turn below.

a. Despite OPC's assertions to the contrary, two things can be true: Charge Ahead would support current and anticipated market needs *and* accelerate the EV market at the same time.

OPC argues at length that Charge Ahead – Electric Vehicles cannot possibly be justified because Ameren relies on two incompatible rationales—first, that "Missourians are not buying electric vehicles because [of a lack of infrastructure]" and second, that "[Ameren] needs to fund the development of more charging stations to deal with an increase in electric vehicles that it predicts will naturally occur."[3] This is weak and shallow analysis. It is hardly inconsistent to both plan for future energy uses and to seed that future at the same time. In fact, both of these actions are the province and duty of this Commission and its regulated entities.

Ameren is right to plan for an electric future by investing in its system and gathering data that will aid in maximizing benefits and minimizing costs of transportation electrification. Ameren is also right to act to accelerate the realization of the many benefits for all customers that flow from electrifying cars, trucks and buses. Its efforts are not justified only by the uncontroverted evidence in the record that there is a current infrastructure gap in Missouri relative to its current, modest level of EV adoption and that infrastructure access is a major barrier that limits the pace

[3] Initial Brief of the Office of Public Counsel at 6 [hereinafter "OPC Initial Brief"].

of EV adoption. State utility commissions across the country have recognized that well-designed utility programs can (and should) meet current, core needs while hastening the pace of adoption.

In approving a $10M EV infrastructure program for Consumers Energy just last week, the Michigan Public Service Commission found that "it is appropriate to incentivize the utility, at this stage of EV adoption, to think proactively and innovatively on this issue" in order to "avoid reactive and expensive capital infrastructure investments in the future" and to support "more efficient use of excess generation and distribution capacity during off-peak hours to the benefit of all customers, as well as provide new modes of storage."[4] The Commission found that "none of this will materialize until EV chargers become more prevalent and accessible."[5]

Similarly, in approving a $10M EV infrastructure for AEP Ohio last spring, the Public Utilities Commission of Ohio found that the program "benefits AEP Ohio customers and the public interest by fostering the goal of increasing the number of electric vehicles locally [and] facilitating the travel of electric vehicles to and through the state…"[6] The Commission noted that "it is essential that drivers of electric vehicles be comfortable that there are accessible places to charge their electric vehicles," even though, "at present, electric vehicles are still a very small portion of the market nationwide…."[7] In conclusion, the Commission observed that "[n]ow is the time to be aware of and prepare for the potential impact on the electric market; the impact on the electric grid, electric distribution, and distribution infrastructure; and the effect, if any, on other AEP Ohio customers."[8]

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[4] *Order* at 8, Case No. U-20134, Michigan Public Service Commission (filed January 10, 2019).

[5] *Id.*

[6] Opinion and Order at 78, In the Matter of the Application of Ohio Power Company For Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143, in the Form of an Electric Security Plan, Case No. 16-1852-EL-SSO, Public Utilities Commission of Ohio (filed April 25, 2018) [hereinafter "Ohio AEP Order"].

[7] *Id.*

[8] *Id.*

Likewise, the Massachusetts Department of Public Utilities, in approving a $25M EV program for National Grid, put it simply:

> As discussed above, the record contains substantial evidence demonstrating that the deployment of charging stations through the EV Program will provide direct benefits to National Grid's customers that use or wish to use EVs in the form of increased service [citations omitted]. There is also substantial record evidence demonstrating that the EV Program will stimulate EV adoption—thereby providing benefits for all of National Grid's customers […].[9]

For the foregoing reasons, the Commission should disregard OPC's attempts to criticize the justifications for this program, which is well-designed to meet core infrastructure needs and accelerate EV adoption.

b. The fact that Charge Ahead would leverage and stretch complementary funding available under the Volkswagen Environmental Mitigation Trust is a virtue of the Charge Ahead program, not a vice.

Staff argues that the fact that there is a small measure of funding set aside for corridor charging and for electric forklifts under Missouri's mitigation plan for use of its allocation under Volkswagen Mitigation Trust ("VW EMT") renders elements of both Charge Ahead programs duplicative.[10] This assertion is contrary to the facts. With respect to the electric forklifts component of the Charge Ahead – Business Solutions program, the VW EMT offers only $2M total for the entire Missouri market, and does not include the customer engagement that Ameren intends to offer. With respect to the corridor component of the Charge Ahead – Electric Vehicles program, the total funding available for the entire state is woefully inadequate to support the minimum practical network designed by stakeholders.

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[9] Order at 43, D.P.U. 17-13, Department of Public Utilities (filed September 10, 2018).

[10] Initial Brief of Staff at 16-17.

The VW EMT is not "duplicative" of either Charge Ahead program element, although the programs are complementary. This is a virtue of Charge Ahead, not a vice. Ameren should be commended for leading a stakeholder group and working to develop a program that will leverage the outside funding of the VW EMT and work to stretch that funding farther than it could go on its own to develop a critical infrastructure backbone for the state. It should likewise be commended for furthering the markets for electrified materials and cargo handling equipment to support funding for cleaner options statewide. In approving EV programs for utilities in Ohio and Nevada in the past year, regulators have recognized the value of coordinating utility action with action by other state departments under the VW EMT.[11] Ameren should likewise be recognized.

c. Staff's request for a "stakeholder process" would be duplicative of past Commission-led processes, resulting in needless delay and wasted resources.

Staff requests that the Commission deny the Charge Ahead – Electric Vehicles program and direct Ameren to engage in a "stakeholder process to develop and file a 'make-ready' tariff."[12] The Commission should deny this request because additional process is not required given the history of EV issues before the Commission.

As noted at hearing and in initial briefs, issues related to EVs have now been before this Commission in two working cases and at least four contested proceedings.[13] The design of Charge Ahead has benefited from Commission guidance in each of those cases—cases in which Staff also participated.[14] Staff has also had ample opportunity for input prior to initiation of the instant case and in the three workshops during its pendency.[15] At all times, Ameren has solicited and worked

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[11] *See* Ohio AEP Order at 79; Order at 9, Docket 18-02002, Public Utilities Commission of Nevada (filed June 27, 2018).

[12] Initial Brief of Staff at 21.

[13] *See* Sierra Club & NRDC Initial Brief at 1-2 (noting that EV issues were addressed in EW-2016-0123; EW-2017-0245; ET-2016-0246; ER-2016-0285; ER-2014-0370); *see also* Tr. Vol. 2 at 52.

[14] *See, e.g.*, Exhibit 6, Direct Testimony of Steven M. Wills at 8.

[15] *See, e.g.*, Exhibit 2, Direct Testimony of Patrick E. Justis at 27-29, 32-33.

to address the feedback of all stakeholders—including Staff. At this point, it is time for the initiation of pilot programs that will allow for data gathering and "learning by doing," rather than conversation that covers no new ground at the expense of limited Commission resources.

Moreover, it is not at all clear what the result of Staff's request for time to develop a "make-ready tariff" would be, given that the Charge Ahead – Electric Vehicles program is, by its terms, *a "make-ready"* program. In prior submitted comments in the Working Case EW-2017-0245, Sierra Club and NRDC explained that, in the prototypical "make-ready program,"

> the utility invests in the "EV Supply Infrastructure," as well as any necessary distribution upgrades that fall into the "EV Service Connection." […] In addition, to offset the cost of the EVSE, the utility provides a rebate to the Site Host for a percentage of its cost. The Site Host retains ownership of the EVSE and is responsible for its upkeep, and the utility recovers the rebate cost as an expense.[16]

That is precisely what Ameren is offering here.

For these reasons, Staff's request should be denied.

d. Performance-based ratemaking has merit in the transportation electrification context, but OPC'S "risk-sharing" proposal is poorly conceived and inappropriate for a pilot program.

OPC asks the Commission to impose a "risk-sharing" mechanism by which cost recovery for the Charge Ahead – Electric Vehicles program would be contingent on whether a certain number of EVs are adopted during the term of the program and beyond.[17] In principle, Sierra Club and NRDC support the development of performance-based cost-recovery approaches that work to align utility and shareholder incentives with delivering the customer and EV driver benefits upon which EV investments are premised. However, OPC's proposal narrowly focuses on an improper metric—individual vehicle sales—and, in any event, Ameren's proposed cost recovery approach

[16] Item No. 15, Comments of Sierra Club & Natural Resources Defense Council on Electric Vehicles at 5, EW-2017-0245 (filed May 2, 2017).

[17] Exhibit 200, Rebuttal Testimony of Geoff Marke at 20-22; OPC Initial Brief at 15-22.

appropriately balances risk at this pilot program stage.

By conditioning cost-recovery on EV sales, OPC's "risk sharing" mechanism asks an impossible-to-answer counterfactual regarding attribution (whether a given electric vehicle would or would not have been purchased but for the utility investment). This approach also fails to track the basic utility regulatory world (e.g., in the line extension context, a utility is not required to examine whether a new house would have been built but for utility line extension policy).

As we explain in our initial brief, the better metrics are those that are measurable by the utility and tied to its program, such as those included in a recent proposal from San Diego Gas & Electric: (1) successful charging station deployment (including deployment in low-income communities); and (2) success in pushing EV load to off-peak hours.[18] Sierra Club and NRDC believe that performance-based rate-making should be a continuing conversation, but is not appropriate at this time given the modest size of the Charge Ahead program, the early stage of the EV market in Missouri, and the fact that the EV-related efforts by the state's utilities are currently at a "pilot stage." Learning from the Charge Ahead program, and others, should inform efforts to develop alternative cost recovery approaches.

III. Conclusion

For the reasons discussed above and in our initial brief, Sierra Club and NRDC urge the Commission to approve the tariff sheets proposed by Ameren and to establish the accounting authority that will permit implementation of the Charge Ahead program with the two minor enhancements described in our initial brief: improved data collection and reporting, and inclusion of an equity component for the Charge Ahead – Electric Vehicles program.[19]

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[18] San Diego Gas & Electric, Advice Letter 3287-E, October 5, 2018.

[19] *See* Sierra Club & NRDC Initial Brief at 9-10 (improvements to Charge Ahead – Electric Vehicles) and 13 (improvement to Charge Ahead – Business Solutions).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct PDF version of the foregoing was filed on EFIS and electronically mailed to all counsel of record on this 17th day of January, 2019.

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