BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Petition of Union Electric Company d/b/a Ameren Missouri for a Financing Order Authorizing the Issuance of Securitized Utility Tariff Bonds for Energy Transition Costs related to Rush Island Energy Center.	)))))	File No. EF-2024-0021

AMEREN MISSOURI'S RESPONSE TO PUBLIC COUNSEL'S APPLICATION FOR REHEARING

COMES NOW Union Electric Company d/b/a ("Company" or "Ameren Missouri), and pursuant to 20 CSR 4240-2.080(13), hereby responds to Public Counsel's Application for Rehearing, as follows:

Net Present Value Benefits.

1. Public Counsel argues that the Commission should read one provision of Section 393.1700 in isolation, rather than reading Section 393.1700 in context, harmonizing all its provisions. Public Counsel's interpretation, however, fails as a matter of law because it violates a well-understood and basic principle of statutory interpretation. Specifically, in determining the intention of the legislature,[1] the courts (and this Commission) do not "read any portion of the statute in isolation, but rather read the portions in context to harmonize all of the statute's provisions." *See, e.g.,* ***N.M.C v. Missouri State Highway Patrol***, 661 S.W.3d 18, 23 (Mo. App. E.D. 2023).

2. While subsection .2(3)(c)(b) of the statute uses the phrase "as compared to recovery" and does not mention "financing", subsection .2(1)(f) specifically requires that an electrical corporation petitioning the Commission for a financing order must provide a comparison of the net present value of costs using securitized utility tariff bonds to finance and

[1] Which is the tribunal's task in applying any statute.

recover energy transition costs to the net present value of costs if the "traditional method of financing and recovering" the undepreciated investment were used instead. Placed in context and not reading either of the two provisions in isolation – as the Commission must – that the legislature intended that the Commission consider not just a recovery *of* energy transition costs, but the *cost of financing that recovery,* becomes obvious. Otherwise, the two provisions cannot be harmonized, as the law requires. Further, it would make absolutely no sense whatsoever for the legislature to require the utility to provide via its petition and evidence supporting it a comparison of the net present value of *financing and* recovery via securitization versus *financing and* recovery via traditional means if that were not the comparison the statute as a whole requires. Did the legislature, during the sausage-making legislative process fail to repeat the "financing and" language in subsection .2(3)(c)(b)? Yes, it did, but that's precisely why isolated statutory provisions are not to be read out of context from the statute as a whole.

3. Putting aside Public Counsel's new argument (it didn't appear in any pre-hearing filing, argument at hearing, or post-hearing brief), there is an even more fundamental reason why OPC's tortured reading of Section 393.1700 fails to give effect to the legislature's intention in adopting Section 393.1700: that is, if OPC's position on the net present value benefits question were correct, then Section 393.1700 is rendered meaningless and useless because in Mr. Murray's own words, "[i]f a ROR is not allowed … securitization [will never be] less costly to customers than traditional ratemaking."[2] For two reasons, the statute cannot be so interpreted.

4. First, to so interpret it would fly directly in the face of the statutory interpretation principle that "the legislature will not be charged with having done a meaningless act." ***See, e.g.,***

[2] The Commission specifically found that under Public Counsel's argument, the statute would be rendered meaningless since securitization could never be less costly. *Report and Order*, ¶ 185. *See also* p. 92, noting Public Counsel's admission that its no carrying costs traditional recovery viewpoint would mean "there would never be a benefit to the use of securitization making the statute ineffectual."

State ex rel. Thompson-Stearns-Roger v. Schaffner, 489 S.W.2d, 207, 212 (Mo. 1973). Second, to so interpret it would fail to give effect to the phrase "financing and …," which is contrary to another principle of statutory construction, the principle that every word and phrase in a statute is to be given meaning. ***See, e.g., Freestone v. Board of Police Commissioners of Kansas City,*** 681 S.W.3d 602, 609 n.2 (Mo. App. W.D. 2023) ("statutory construction requires effect be given to "'every word, clause, sentence, and provision of a statute[.]'" (quoted cases omitted)).

Holmstead and Moor Costs.

5. In short, Public Counsel, without any legal analysis or support, claims that any argument Ameren Missouri would make regarding the prudence of its permitting decisions is precluded by principles of collateral estoppel. Therefore, Public Counsel contends that costs related to two witnesses Ameren Missouri engaged to address those issues – Messrs. Holmstead and Moor -- should be excluded entirely from energy transition costs. The Company has already addressed this specious argument. *See* pages 17 – 20 of Ameren Missouri's Reply Brief filed in this docket for a thorough dismantling of Public Counsel's collateral estoppel arguments.

WHEREFORE, Ameren Missouri prays that the Commission make and enter its order denying Public Counsel's Application for Rehearing.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that true and correct copies of the foregoing have been e-mailed to the attorneys of record for all parties to this case as specified on the certified service list for this case in EFIS, on this 26th day of July, 2024.

/s/ James B. Lowery
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