

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

Amended Application of Union Electric)
Company d/b/a Ameren Missouri for)
Acceptance of Its Triennial Filing of Cost)
Estimates for Callaway Energy Center)
Decommissioning, Including the)
Independent Spent Fuel Storage Installation,)
and Approval of the Funding Level of the)
Nuclear Decommissioning Trust Fund.)

Case No. EO-2023-0448

**JOINT MOTION TO STRIKE PORTIONS OF THE OFFICE OF THE PUBLIC
COUNSEL'S INITIAL BRIEF AND MOTION FOR EXPEDITED TREATMENT**

COMES NOW Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri" or "Company") and the Staff of the Missouri Public Service Commission ("Staff"), and hereby submits this Joint Motion to Strike Portions of the Office of Public Counsel's Initial Brief addressing issues not contained in the List of Issues filed on April 11, 2025, and Motion for Expedited Treatment. In support of the Motions, Staff and the Company state as follows:

1. The Office of Public Counsel's ("OPC") initial brief improperly addresses issues not filed in the List of Issues filed on April 11, 2025. *See* OPC Initial Brief at page 2, last sentence and pages 12-14, Section 3, Unlisted Contested Issues. The OPC's brief addresses issues beyond the scope of OPC's Objection to the Settlement filed on February 14, 2025 and beyond the scope of the agreed upon List of Issues filed on April 11, 2025. Consequently, OPC failed to follow the Commission's Order Setting Procedural Schedule, issued March 24, 2025. Under the Commission's rules, the briefs which are not in substantial compliance with commission orders may not be accepted for filing. 20 CSR 4240-2.080(12). OPC's raising of a new issue in Section

3, therefore, is improper and prohibited by the Commission's rules, and thus Section 3 and the last sentence of the Introduction should be stricken.

2. Moreover, OPC undermined the procedural schedule and denied Staff and the Company the due process in responding to the new issues OPC raised. Staff and the Company cannot respond since the procedural schedule does not allow for reply briefs. Additionally, OPC's characterization of the issue is factually incorrect and misleading. The issue raised in OPC's brief was litigated in the federal courts¹ and the Commission reviewed several Settlements in previous dockets adopting the language. *See* EO-2018-0051, Order Approving Stipulation and Agreement, issued January 23, 2018, page 5, paragraph 7; and EO-2021-0050, Order Approving Stipulation and Agreement, issued February 24, 2021, page 6, paragraph 10. OPC did not raise an objection when the Commission approved similar language most recently in EO-2024-0056. *See* EO-2024-0056, *In the Matter of the Application of Evergy Metro, Inc. d/b/a Evergy Missouri Metro for Approval of the Accrual and Funding of Wolf Creek Generating Station Decommissioning Costs at Current Levels*, Order Approving Application Regarding Decommissioning Costs and Approving Stipulation and Agreement issued January 4, 2024, page 2, recognizing OPC did not file an objection to the Stipulation and Agreement, and page 9, paragraph 5 of the attached Stipulation and Agreement stating "ISFSI funds recovered from the DOE in connection with decommissioning of the ISFSI will be used to offset the costs of decommissioning the Wolf Creek site."

¹ See footnote 14 of the Settlement which provides: The Department of Energy ("DOE") had a contract with Ameren Missouri and nuclear customers were paying in rates fees to remove, transport and dispose of spent nuclear fuel assemblies (high-level radioactive waste) from the Callaway Energy Center to a Nevada - Yucca Mountain repository site. With DOE not taking the spent nuclear fuel assemblies for the Yucca Mountain site, Ameren Missouri has been storing and will continue to store these spent nuclear fuel assemblies on site at the Callaway Energy Center. Ameren is not the only utility affected by the Department of Energy's failure to accept and dispose of radioactive waste from United States nuclear utilities. *See, e.g., Yankee Atomic Elec. Co. v. U.S.*, 536 F.3d 1268, 1270 (Fec. Cir. 2008) (*Yankee I*); *See also* EO-2015-0253.

3. OPC's claim that its due process was impeded is without merit since the Company's ISFSI subaccount fund was created and approved in File No. EO-2015-0253.² The Commission approved the Settlement in that docket wherein the Commission recognized that "any reimbursements for ISFSI decommissioning received by Ameren Missouri from DOE shall be refunded to ratepayers by Ameren Missouri pursuant to a methodology approved by the Commission." EO-2015-0253, Order Approving Stipulation and Agreement, issued April 6, 2016, page 6, paragraph 12. The Commission noted on page 2 of its Order that OPC did not oppose the agreement and the Commission treated the stipulation and agreement as unanimous. *Id.* OPC's claim is also unfounded since the language at issue was in the Non-Unanimous Stipulation and Agreement filed on February 7, 2025, and OPC did not address the issue in its Objection to the Settlement filed on February 14, 2025. The consequences of OPC's failure to timely raise the issue in this case and in past cases should not be rewarded with an end run around the rules.

4. Moreover, the language OPC opposes was adopted by the Commission in EO-2021-0050. EO-2021-0050, Order Approving Stipulation and Agreement, issued February 24, 2021, page 6, paragraph 10, and page 2, *noting OPC did not oppose the agreement and the Commission treating the stipulation and agreement as unanimous.* The procedural rules prohibit OPC's collateral attack on previous Commission orders. Therefore, OPC's due process rights to address the issue cannot be violated since the language was previously adopted by the Commission in a previous order.

5. If the procedural rules and the procedural schedule are to have meaning, then parties cannot be allowed to add issues not included on the List of Issues or to collaterally attack previous

² EO-2015-0253, Order Approving Stipulation and Agreement, issued April 6, 2016, page 5, paragraph 11.

Commission rulings. Accordingly, the Commission should strike the last sentence of the Introduction on page 2 and Section 3 on pages 12-14 of OPC's Initial Brief.

MOTION FOR EXPEDITED TREATMENT

6. The Commission should act on the motions made as soon as possible, insofar as the parties in this case are requesting a decision as quickly as possible to allow the compliance tariffs in ER-2024-0319 to reflect zero contributions.

7. The harm that will be avoided includes a delaying a decision to address the uncontested matters and a timely decision for the contested matters outlined in the List of Issues. Granting the motion to strike will also avoid the harm inherent in what would otherwise amount to sanctioning OPC's failure to comply with the Commission's rules if the motion to strike was not granted.

8. These motions are being filed as soon as possible after reviewing the initial brief, which was as soon as this pleading could reasonably have been prepared.

WHEREFORE, Staff and the Company respectfully request that the Commission make and enter its order granting the joint motion to strike the above-cited portions of OPC's Initial Brief, and for such other and further relief as is just and proper under the circumstances.

Respectfully submitted,

/s/ Jennifer S. Moore

Jennifer S. Moore, MO Bar #75056
Senior Corporate Counsel
Ameren Missouri
1901 Chouteau Avenue, MC 1310
St. Louis, MO 63103
Telephone: 314-861-4874
AmerenMOService@ameren.com

**ATTORNEYS FOR UNION ELECTRIC
COMPANY D/B/A AMEREN MISSOURI**

/s/ Travis Pringle

Travis Pringle, MO Bar # 71128
Chief Deputy Counsel
PO Box 360
Jefferson City, MO 65102
Telephone: 573-751-5700
Travis.Pringle@psc.mo.gov

**ATTORNEY FOR THE STAFF OF
THE MISSOURI PUBLIC SERVICE
COMMISSION**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served on the service list via electronic mail (e-mail) on this 9th of May 2025.

/s/ Jennifer S. Moore
Jennifer S. Moore