

## 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 )      **Case No. EA-2023-0286**  
Public Convenience and Necessity      )      Tracking No. JE-2026-0068  
Authorizing it to Construct renewable      )  
Generation Facilities      )

### **STAFF'S REPORT AND RECOMMENDATION/** **MOTION TO SUSPEND TARIFF/ FOR EXPEDITED RULING**

**COMES NOW** the Staff of the Missouri Public Service Commission (“Staff”), makes the following report and recommendation, and respectfully moves the Commission **for an expedited ruling suspending the tariff** bearing Tracking No. JE-2026-0068, stating as follows:

1. On June 12, 2024, the Commission issued an Order Granting Certificate of Convenience and Necessity based upon a Stipulation and Agreement (“Agreement”). Under the terms of the Agreement, the signatories agreed that the Commission should grant Ameren Missouri certificates of convenience and necessity (“CCNs”) for the Split Rail Project, the Vandalia Project, and the Bowling Green Project, subject to conditions listed in paragraph 5 of the Agreement. Paragraph 5.j of the agreement stated that the CCNs would be subject to the condition, *inter alia*, that:

Reporting for any of the projects that are ultimately determined to be resources to be used for a future Renewable Solutions Program phase shall be as ordered by the Commission’s Report and Order in File No. EA-2022-0245. The Company shall notify Staff via a notice filed in this docket within seven (7) days after a decision to utilize such a project for the Renewable Solutions Program is made.

2. On June 16, 2024, Ameren Missouri filed a Notice Regarding Renewable Solutions Resources. Therein Ameren Missouri gave notice:

. . . as required by ¶5j (second sentence) of the approved Stipulation and Agreement in this docket, that capacity from the Vandalia, Bowling Green, and Split Rail 1 solar facilities will be offered for subscription in the Company's Renewable Solutions Program. Whether and to what extent capacity from one, two, or all three facilities will be used for the Renewable Solutions Program will depend on whether and to what extent the capacity is subscribed. Once the subscription event is complete, a Renewable Solutions Program Phase 3 tariff sheet reflecting renewable resource charges and credits will be submitted to the Commission.

3. On November 12, 2025, Ameren Missouri filed a tariff sheet to establish rates for Phase 3 of its Renewable Solutions Program, using the Vandalia and Bowling Green solar facilities as resources. The tariff sheet bore an effective date of December 12, 2025, and has been assigned Tracking No. JE-2026-0068. **The effective date has been suspended until December 30, 2025.**

4. Ameren Missouri's filing letter for Tariff Tracking No. JE-2026-0068 stated that the tariff was filed as a revision of Schedule No. 6, schedule of rates for electricity, and that the purpose of the new tariff Sheet No. 83.8 was to establish rates for Phase 3 of its Renewable Solutions. It stated that the rates were developed as the result of an enrollment event seeking subscriptions to the Vandalia and Bowling Green solar facilities; that both facilities were offered as part of a Phase 3 rate schedule with their total nameplate capacities and respective capacity factors weighted and offered collectively in one phase; and that through the enrollment process, Phase 3 (both facilities) was fully subscribed.

5. The tariff sets out a Renewable Solutions Rate schedule – Program Phase No. 3. The tariff states that the rate schedule set out therein applies to Renewable Energy Service for subscribers enrolled in Program Phase No. 3. It states that subsequent program phases, if any, shall have a separate rate schedule.

6. Staff reviewed the Commission's filings and orders. Staff reviewed the tariff and Ameren Missouri's work papers. Based upon a review of the tariff and the Commission's orders, Staff concluded that the renewable solutions program rate schedule complied with the previous orders of the Commission.

7. Staff advises the Commission that the current status of the matter is that the Company has now provided Staff with data sufficient to conclude that Vandalia is now in service per § 393.135, RSMo. Staff's Memorandum, attached and incorporated as Appendix A, sets fully and in detail Staff's investigation, findings, and conclusions. The Company, however, has provided no such data for Bowling Green—also covered by the pending tariff--nor does the Company claim that Bowling Green is in service.

8. Based on communications with the Company, Staff has concluded that it is, in fact, the Company's position that it can begin charging rates set for renewable energy credits even though no energy is actually being produced, i.e., that such a charge is not "cost-based" and, thus, not a charge prohibited by § 393.135, RSMo. Staff disagrees.

9. As indicated in its pleadings filed subsequently to November 12, 2025, Staff has not been able to recommend that the Commission approve the Tariff Tracking Number JE-2026-0068. Staff has had two reasons: First, until the present, there was no dispute that neither facility, Vandalia nor Bowling Green, was in service as mandated by § 393.135, RSMo. Second, although the tariff sheet was styled "renewable solutions rate schedule – program phase no. 3," the tariff applies the term "rate" to "RE [renewable energy] Service" [emphasis added] and "resource"—terms which indicate that the term "rate" implies "cost base" charges and certainly does not exclude them, which, if the

facilities are not in-service per § 393.135, RSMo, triggers that statute's prohibition.<sup>1</sup> Staff's interpretation of the tariff language is reinforced by Commission rule. Rule 20 CSR 4240-20.100(1)(N), using the past participle of the verb "produce"<sup>2</sup> as a limiting adjective, defines "renewable energy resource(s)" as "electric energy *produced* . . ." A "renewable energy resource" does not exist until it is produced.

10. Staff would point out, however, that the Company's position begs the question of what a "renewable energy credit" is. In fact, the Company's argument that RECs are not cost based is foreclosed by statutory definition. Section 393.1025(4), RSMo, defines "renewable energy credit" or "REC," as a "tradeable certificate of proof that one megawatt-hour of electricity *has been generated* from renewable energy resources" [emphasis added]. The statute uses the present perfect verb phrase "has been generated."<sup>3</sup> Thus, per statute, no REC can exist for power which has not, as of the issuance of the REC, been actually generated. Rule 20 CSR 4240-20.100(1)(M) tracks the statutory definition: "A REC represents that one (1) megawatt-hour of electricity has been generated from renewable energy resources." The statutes and regulations, taken altogether, compel the conclusion that any REC must be backed by an actual megawatt-hour of electricity that has already been generated.

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<sup>1</sup> See Rule 20 CSR 4240-20.100(1)(M), which tracks the statutory definition: A REC represents "that one (1) megawatt-hour of electricity has been generated from renewable energy resources."

<sup>2</sup> "Past participle: a participle that typically expresses completed action, that is traditionally one of the principal parts of the verb, and that is traditionally used in English in the formation of perfect tenses in the active voice and of all tenses in the passive voice." PAST PARTICIPLE Definition & Meaning - Merriam-Webster. Accessed December 28, 2025.

<sup>3</sup> Present Perfect: a verb tense that is used to refer to an action that began in the past and is completed at the time of speaking. Note: The *present perfect* in English is formed with 'has' and 'have' and the past participle of a verb, as in 'He has left,' and 'They have found what they were looking for.' "The present perfect." *Merriam-Webster.com Dictionary*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/the%20present%20perfect>. Accessed 28 Dec. 2025.

11. It is, accordingly, Staff's conclusion and recommendation that the rate schedule set out in Tariff Tracking Number JE-2026-0068 **be approved** for the Vandalia facility, conditioned, however, on the following:

- a. That Tariff Tracking Number JE-2026-0068 **be rejected**; and
- b. That the Company file a substitute tariff containing the approved rates, limited, however, to only Vandalia.

12. The pending "live" tariff will become effective by operation of law on December 30, 2025, unless suspended or rejected.

13. Because the issues raised in the pleadings cannot be resolved before that time, and because the tariff as written will become immediately effective without conditions, Staff moves the Commission to suspend the tariff's effective date and to give expedited consideration to this motion.

**WHEREFORE**, Staff respectfully requests **expedited consideration** of this motion and issuance of an Order suspending the December 30, 2025 effective date of the tariff bearing Tracking No. JE-2026-0068, and for such further relief as the Commission deems appropriate.

Respectfully submitted,

*/s/ Paul T. Graham*

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**Certificate of Service**

The undersigned certifies by his signature below that on December 29, 2025, he filed the above captioned pleading in the EFIS file of the Missouri Public Service Commission.

/s/ Paul T. Graham