

**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 Public Convenience and) File No. EA-2026-0183
Necessity Authorizing it to Construct Renewable)
Generation Facilities and Battery Energy Storage)
Systems.)

**REPLY OF MARY E. GEEDING TO THE COMPANY’S
OPPOSITION TO LATE-FILED INTERVENTION REQUESTS (ITEM 69),
AND STATEMENT OF ALTERNATIVE RELIEF**

COMES NOW Mary E. Geeding (“Movant”), appearing on her own behalf as permitted by 20 CSR 4240-2.040(5), and pursuant to 20 CSR 4240-2.080(13) replies to the opposition filed by Union Electric Company d/b/a Ameren Missouri (the “Company”) on October 7, 2026 (Item 69) (the “Opposition”) to her Motion to Intervene Out of Time, Request for Limited Intervention, Definitive Statement Accepting the Record, and Motion for Expedited Treatment, filed October 2, 2026 (Item 66) (the “Motion”). To the extent leave is required to file this Reply, Movant respectfully requests it. In support she states:

I. WHAT MOVANT CONCEDES

1. The Opposition is correct that a timely objection by a party would make the Non-Uniform Stipulation and Agreement (Item 63) (the “Stipulation”) “merely a position of the signatory parties,” and that “[a]ll issues shall remain for determination after hearing.” 20 CSR 4240-2.115(2)(D); Opposition ¶ 30; Motion ¶ 22. But the objection period under 20 CSR 4240-2.115(2)(B) closed on October 2, 2026, before Movant could become a party. Movant could object only if the Commission both granted intervention and enlarged that period under 20 CSR 4240-2.050(3). Motion, Relief Requested ¶ (3). Whether a hearing follows rests with the Commission.

2. The Opposition is also correct that the Motion was filed well over three months after the intervention date of June 12, 2026, and that Movant does not claim to have been unaware of this case until the eve of filing. Opposition ¶¶ 16, 36. The Motion said so: Movant learned of this

proceeding on July 27, 2026, and does not claim she was unaware of it after that date. Motion ¶ 25.

3. Movant therefore addresses first the relief she requested that requires no party status and no objection. The Opposition asks that the Commission deny “all associated motions,” but it does not discuss that request. Motion, Relief Requested ¶ (4).

II. RELIEF THAT REQUIRES NO PARTY STATUS

4. If no party objects to a nonunanimous stipulation, the Commission “may treat” it as unanimous. 20 CSR 4240-2.115(2)(C). The rule is permissive. In granting a certificate, the Commission “may by its order impose such condition or conditions as it may deem reasonable and necessary.” Section 393.170.3, RSMo; Motion ¶ 9. Neither step depends on Movant’s party status.

5. Movant therefore asks first that, before acting on the Stipulation, the Commission consider the matters in Section VII of her Motion, and that it consider whether the following conditions on the Millcreek certificate are reasonable and necessary. Each is drawn from the Company’s own prefiled testimony or from the Stipulation. None requires new evidence.

- (a) Timing of the site-specific Hazard Mitigation Analysis. The Company’s witness testified that the analysis “will be completed as part of the design process and prior to the delivery of the BESS equipment to site,” and that it must address “the selected battery equipment.” Surrebuttal Testimony of Scott Wibbenmeyer (Item 49) (“Wibbenmeyer Surrebuttal”), p. 16, ll. 5–13. The Stipulation requires a copy to be submitted only “after each BESS facility goes into service.” Stipulation ¶ 5(c)(ii). Movant asks that the copy be filed when the analysis is completed, before the equipment is delivered, as the Company’s witness described.
- (b) Containment of runoff. The Company’s witness described containment barriers and “multiple detention basins designed to collect, test and manage runoff, so water remains controlled on-site during both normal operations and emergency event

conditions.” Wibbenmeyer Surrebuttal, p. 21, ll. 7–12. The Stipulation refers only to procedures the Company “may develop,” to be submitted “after any corresponding BESS facility goes into service.” Stipulation ¶ 5(c)(iii). The Company will also keep “an approximately 30,000-gallon water storage tank on-site” for “defensive firefighting operations.” Wibbenmeyer Surrebuttal, p. 20, ll. 13–20. Neither that testimony nor the Company’s environmental studies state the capacity of the detention basins, the storm they are designed for, or how runoff will be tested, and the flood study models only “existing conditions.” Item 43, Atts. A–C; Att. C, § 1. Movant asks that the containment design, including basin capacity, and the runoff collection and testing measures be filed in public form before the Millcreek facility begins operation. Items filed with the Commission “shall be open to the public unless protected pursuant to this rule or otherwise protected by law.” 20 CSR 4240-2.135(1). These are basic site facts; filing them publicly answers residents’ questions now and avoids later disputes.

- (c) Responder commitments. The Company testified that it “offers safety training to local first responders prior to commencing operation” and “has committed to supplying reasonable project-specific equipment identified by local responders.” Wibbenmeyer Surrebuttal, p. 18, ll. 12–14; p. 19, ll. 17–21. None of these commitments appears in the Stipulation, which contains no condition addressing first responders or responder training. Motion ¶ 34. Movant asks that those commitments be stated as conditions.
- (d) A public summary of the safety test results. The Company’s fire-propagation testimony rests on “hazard-analysis information for the Tesla Megapack 2 XL, which is similar to the equipment proposed for these projects.” Wibbenmeyer Surrebuttal, p. 14, l. 23 – p. 15, l. 1. Its account of the unit-level test results (p. 15, ll. 4–15) is redacted from the public version. Footnote 7 to that passage cites the

“Report referenced in the Company’s response to DR MPSC 0103 in this case and provided in response to DR MPSC 0024 in File No. EA-2025-0238.” For the Megapack 3, the Stipulation provides for a public pleading, at least 90 days before installation, “stating that the safety testing has been completed, identifying the results of it, and attaching the supplier’s confidential safety testing report for the Staff and OPC’s review.” Stipulation ¶ 5(h)(ii). Movant does not seek access to confidential information. Motion ¶ 20(d). She asks that the Company file a public safety summary of the unit-level test outcomes for the Megapack 2 XL, and that the Megapack 3 pleading state the same outcomes, in plain terms: whether thermal runaway spread beyond the unit in which it was initiated, whether flaming occurred outside the enclosure, and whether any explosion or deflagration was observed. Outcomes of that kind describe how the equipment behaves in a fire; they are not how it is made. The Public Counsel itself observes that “honest and straight-forward answers that include additional publicly available information may help alleviate some of these concerns.” Item 68, Memorandum, p. 4. If the Company maintains that any part of such a summary, or of the basin information in item (b), is confidential, Movant asks that it identify “the specific subsection relied upon and an explanation of its applicability.” 20 CSR 4240-2.135(2)(B). The residents nearest the site should be able to read the basis on which the facility is found safe.

6. Movant recognizes that under the Stipulation a conditioned approval releases the signatories from it. Stipulation ¶¶ 7–8. Items (a) through (c), however, rest on commitments the Company has already made in its prefiled testimony. As conditions, they would ask little beyond what the Company has said it will do, and would make those commitments part of the Commission’s order, giving nearby residents confidence in the Company’s diligence. Movant asks the Commission to direct the Company to state whether it accepts each of items (a) through (c) as a condition of the Millcreek certificate. If it declines any, the Commission will know which

commitments it will not make binding. That request requires no hearing; a condition imposed without the Signatories' agreement would restore their procedural rights. Stipulation ¶¶ 8, 10.

7. The Opposition does not address this relief, which does not depend on Movant's party status. Movant asks that the Commission rule on it separately, whatever its ruling on intervention.

III. FOOTNOTE 9: THE SUBJECTS ARE REFLECTED; THE TIMING IS NEW

8. The Opposition states that Staff's recommended BESS conditions are "in substance reflected in the Non-Unanimous Stipulation and Agreement." Opposition ¶ 9, n.9. As to subject matter, Movant agrees.

9. As to timing, the Company's witness Steven M. Wills testified that, "[r]egarding Engineering Conditions a, b, and c, the Company agrees except that it is necessary to clarify the timing for provision of the analysis/plan/methods/response strategy, as shown in Schedule SMW-S1." Surrebuttal Testimony of Steven M. Wills (Item 50) ("Wills Surrebuttal"), p. 22, ll. 32–34. In that schedule, the Company's revision to Condition C.b provides that the analysis "will be submitted after each BESS facility goes into service," and its revision to Condition C.c provides that the procedures "will be submitted after any corresponding BESS facility goes into service." Wills Surrebuttal, Schedule SMW-S1. That timing is now Stipulation ¶¶ 5(c)(ii) and (iii).

10. Movant does not suggest the change was improper. She notes only that it differs from the Company's testimony that the analysis will be completed before delivery. Paragraph 5(a).

IV. THE OFFICE OF THE PUBLIC COUNSEL

11. The Opposition relies on 20 CSR 4240-2.040(2) and Section 386.710.1(2), RSMo, under which the Public Counsel "may represent and protect the interests of the public in any proceeding before or appeal from the public service commission," and states that the Public Counsel represents Movant "as a matter of law." Opposition ¶¶ 20, 24. Movant agrees that the Public Counsel represents the public, and she has relied on its work in this case.

12. The next subdivision of the same statute completes the picture. Section 386.710.1(3) provides that the Public Counsel "shall have discretion to represent or refrain from representing

the public in any proceeding,” weighing among other things “whether that interest would be adequately represented without the action of his office.” It concludes: “Nothing in this section shall be construed to limit the right of any person, firm or corporation specified in subsection 1 of section 386.390 to petition or make complaint to the commission or otherwise intervene in proceedings or other matters before the commission.” Section 386.390.1 includes “any corporation or person.” The Public Counsel’s role does not answer who may intervene; 20 CSR 4240-2.075(3) does.

13. The Public Counsel has exercised that discretion: it does not object to the Stipulation. Item 68, Response ¶ 2. It stated that it “also does not wish for it to act as a waiver of the various concerns raised by it and members of the public throughout this process.” *Id.* ¶ 5. It identified those concerns as including “safety concerns associated with the batteries themselves, environmental concerns associated with water runoff, the effects of potential fires,” and stated that its non-objection “does not constitute an agreement that these concerns have been satisfied or that they are illegitimate.” *Id.* ¶ 8.

14. Movant reads the Public Counsel’s response as a careful and appropriate exercise of its judgment and notes only its effect. The Opposition itself points to the testimony of the Public Counsel’s witness describing the concerns he heard at the local public hearings, including the Moscow Mills hearing. Opposition ¶ 24, nn.27–28 (Marke Rebuttal, Section VI; Marke Surrebuttal, pp. 9–11). Those concerns were heard, and the Public Counsel’s response does not treat them as satisfied. Item 68, Response ¶ 8. The concerns the Public Counsel preserved are the concerns in Section VII of her Motion. The Public Counsel has indicated that it would pursue them, if at all, as prudence questions “in a future rate case.” Item 68, Response ¶¶ 5, 8; Memorandum, p. 4. That leaves no party to present them now as conditions on the certificate.

15. This also distinguishes the order the Opposition cites from File No. EA-2026-0343. Opposition ¶¶ 17, 37. In that order the Commission found that, “absent a showing to the contrary from those residential applications seeking to intervene,” the Public Counsel’s representation was

sufficient. File No. EA-2026-0343, Item 60, pp. 3–4. Here the Public Counsel’s own filing declines to treat those concerns as satisfied. The posture also differs. There the application had been filed only weeks earlier, no stipulation had been filed, and the Public Counsel had itself moved to extend the intervention period and issue a new notice. *Id.*, Item 37. Here the schedule has been vacated (Item 62) and a stipulation is pending.

16. Movant’s interest is also of a different kind than the interest found insufficient in the order the Opposition quotes. Opposition ¶ 25, n.29. There the applicant contended that a sewer district “was never legally established,” and the Commission found that he had “failed to demonstrate that his stated interests may be adversely affected by a final order arising from this case.” File No. SA-2015-0065, Order Regarding Application to Intervene Out of Time (Dec. 17, 2014), pp. 2–4. Here the final order will fix the conditions governing runoff from the site, and Movant’s showing rests on the Company’s own filings, which show that the site “drains west into Mill Creek” (Item 43, Att. A, § 3.1.1), on which Movant lives downstream, and on the Company’s testimony that its containment measures are meant to keep water and runoff “managed on Company property.” Wibbenmeyer Surrebuttal, p. 21, ll. 3–5; Motion ¶¶ 5–8. The Opposition answers distance (Opposition ¶ 26(c)) but not this water path. Movant is not a Company customer, and her interest is not the ratepayer interest the Stipulation preserves for later proceedings. Stipulation ¶ 5(f)(ii); Motion ¶ 8(b).

V. GOOD CAUSE

17. The Opposition measures timeliness from June 12, 2026, and notes that the late requests in File No. EA-2026-0343 were filed “within two weeks of the intervention deadline.” Opposition n.18. Movant’s request is directed to a document that did not exist on that date. The schedule was vacated on September 21, 2026 (Items 61, 62), the Stipulation was filed on September 25, 2026 (Item 63), and the Motion was filed seven days later, the same period the Commission’s rule allows a party to object to a nonunanimous stipulation. 20 CSR 4240-2.115(2)(B). Measured from the event that prompted it, the Motion was prompt.

18. The Opposition’s own chronology shows that the public, not only Movant, received the key safety information late. The local public hearings were not ordered until July 14, 2026, a month after the intervention date. Opposition ¶¶ 2, 5. The Company filed its environmental studies for the Millcreek site on August 21, 2026, after four of the five hearings, “[b]ased primarily on questions and comments raised” at the Eolia and virtual hearings. Opposition ¶¶ 7–9, 11; Item 43. Those studies are the source of the statement that the site “drains west into Mill Creek.” Item 43, Att. A, § 3.1.1. The Company’s testimony on “Fire Safety, Hazard Mitigation, and Environmental Impacts” followed on September 4, 2026, after the last hearing. Wibbenmeyer Surrebuttal, pp. 11–23. The schedule was vacated before it was examined (Item 62), and the Hazard Mitigation Analysis, the containment procedures and the Megapack 3 test results are to be filed later still. Stipulation ¶¶ 5(c)(ii)–(iii), 5(h)(ii). Public participation has improved this record, and limited intervention would serve the public interest. 20 CSR 4240-2.075(3)(B). Movant does not ask to reopen the record. She asks that the conditions in paragraph 5 place those documents in public view before the equipment is delivered and the facility operates. The Opposition does not respond to Motion ¶ 24.

19. The late filing causes no prejudice. Movant accepts the record as it stands, has waived new data requests, depositions, testimony and cross-examination, and seeks no change to any date except the narrow enlargement in her Motion. Motion ¶¶ 18–21, 30. Part II requires none.

20. The Opposition contends that delay would prejudice the Company. Opposition ¶ 32. The Company’s own filings schedule Millcreek construction for the first quarter of 2027 and service for the second quarter of 2028, and ask for an order by November 30, 2026. Application (Item 2) ¶¶ 6, 22; Direct Testimony of Scott Wibbenmeyer (Item 12), p. 5, Table 2. The Company can answer the request in paragraph 6 without a hearing and well within that time, and each condition in paragraph 5 follows the Company’s own sequence. Stipulation ¶ 5(h)(i)–(ii). Conditions that follow the Company’s own schedule do not delay it.

21. Movant's waiver is of "new" data requests. Motion ¶ 19. If intervention is granted, she asks the Commission to clarify that her reserved "access to the existing record," Motion ¶ 20(b), includes the public form of data requests to or by the Staff, and responses, kept in the Commission's Electronic Filing and Information System. 20 CSR 4240-2.090(2)(H).

VI. IN THE FURTHER ALTERNATIVE: LEAVE TO FILE AS AMICUS CURIAE

22. "Any person not a party to a case may petition the commission for leave to file a brief as an amicus curiae." 20 CSR 4240-2.075(11). If the Commission denies intervention, Movant asks for that leave. Her interest is stated in paragraphs 5 through 10 of her Motion. The matters are relevant because they bear on what conditions are "reasonable and necessary" under Section 393.170.3, RSMo. An amicus brief is desirable for the reasons in Part IV above: the concerns the Public Counsel preserved will otherwise not be presented by any party. Movant proposes to file a brief of no more than ten pages, confined to the matters in Section VII of her Motion and to the existing record, within seven days of the Commission's order or as the Commission directs.

VII. RELIEF REQUESTED

WHEREFORE, Movant respectfully requests that the Commission issue an order:

- (1) before acting on the Stipulation, considering Section VII of the Motion and Part II of this Reply, and ruling on Part II regardless of its ruling on intervention;
- (2) directing the Company to state whether it accepts each of items (a) through (c) in paragraph 5 as a condition of the Millcreek certificate, and to file the public safety summary described in item (d);
- (3) imposing on the Millcreek certificate, under Section 393.170.3, RSMo, such of those conditions as the Commission deems reasonable and necessary;
- (4) granting Movant leave to intervene out of time, limited as set out in Sections V and VIII of the Motion, with the other relief requested there;
- (5) if intervention is denied, granting Movant leave under 20 CSR 4240-2.075(11) to file an amicus brief as described in Part VI; and

(6) granting such other relief as is just.

Respectfully submitted,

/s/ Mary E. Geeding
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Dated: October 19, 2026

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail on October 19, 2026 upon all counsel of record reflected on the Commission's official service list in File No. EA-2026-0183, including counsel for Union Electric Company d/b/a Ameren Missouri, the Staff of the Commission, the Office of the Public Counsel, and Renew Missouri.

/s/ Mary E. Geeding
Mary E. Geeding