

**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’s Energy Efficiency)
Investment Charge Rider.)
Case No. ER-2015-0132

PUBLIC COUNSEL’S RESPONSE TO ORDER

COMES NOW the Office of the Public Counsel (“Public Counsel”) and for its Response to the Commission order issued December 30, 2014, and in support of its Motion for Leave to File, Request for Additional Time, and Motion to Suspend Tariff Sheets, states as follows:

Background

1. On November 21, 2014, Union Electric Company d/b/a Ameren Missouri (Ameren Missouri) filed an Application to adjust its Energy Efficiency Investment Charge Rider. The Application consisted of the Direct Testimony of William R. Davis¹ and a proposed tariff revision to become effective on and after January 27, 2015.² The cover letter to the proposed tariff sheet states:

This filing follows the terms of the Commission-approved Energy Efficiency Investment Charge Rider which requires an annual filing on or about this date. The tariff sheet reflects anticipated costs as well as reconciliations of historical costs associated with Ameren Missouri’s approved demand-side programs.³

Because the filing seeks to set rates on a demand-side programs investment mechanism (DSIM)⁴ between rate cases, the filing must comport with the Commission rule regarding the requirements for semi-annual adjustments of the DSIM rate.⁵

¹ Electronic Filing and Information System (EFIS), Item No. 1.

² EFIS, Item No. 2.

³ Id.

⁴ “Demand-side programs investment mechanism” is defined in 4 CSR 240-20.093(1)(M).

⁵ 4 CSR 240-20.093.

2. On November 24, 2014, the Commission issued an Order directing the Staff of the Missouri Public Service Commission (Staff) to file its recommendation no later than December 21, 2014.⁶

3. On December 19, 2014, Staff filed its Recommendation which recommended that the Commission approve the proposed tariff sheet submitted by Ameren Missouri.⁷

4. On December 30, 2014, Public Counsel filed its Motion to File Out of Time, Request for Additional Time to Respond to Staff's Recommendation, and Motion to Suspend Tariff Sheets.⁸

5. Without ruling on Public Counsel's Motions, the Commission, on the same day, issued an Order Directing Filing requiring Public Counsel to state, no later than January 5, 2015, what authority it believes the Commission has to suspend the tariffs, and for how long it wishes the tariffs to be suspended.⁹

6. In response to the Commission's Order, and to provide additional detail to assist the Commission, Public Counsel offers:

Request for Additional Time to Respond to Staff's Recommendation

7. Commission Rule 4 CSR 240-20.093(4) states:

... When an electric utility files tariff sheets to adjust its DSIM rates between general rate proceedings, the staff shall examine and analyze the information filed by the electric utility in accordance with 4 CSR 240-3.163(8) and additional information obtained through discovery, if any, to determine if the proposed adjustments to the DSIM cost recovery revenue requirement and DSIM rates are in accordance with the provisions of this rule, section 393.1075, RSMo, and the DSIM established, modified, or continued in the most recent filing for demand-side program approval. The staff shall submit a recommendation regarding its examination and analysis to the commission not later than thirty (30) days after the electric utility files its tariff sheets to adjust its DSIM rates. If the adjustments to the DSIM cost recovery revenue requirement and DSIM rates are in accordance with the provisions of this rule, section 393.1075, RSMo, and the DSIM

⁶ EFIS, Item No. 3.

⁷ EFIS, Item No. 7.

⁸ EFIS, Item No. 8.

⁹ EFIs, Item. No. 9.

established, modified, or continued in the most recent filing for demand-side program approval, the commission shall issue an interim rate adjustment order approving the tariff sheets and the adjustments to the DSIM rates shall take effect sixty (60) days after the tariff sheets were filed. If the adjustments to the DSIM cost recovery revenue requirement and DSIM rates are not in accordance with the provisions of this rule, section 393.1075, RSMo, or the DSIM established, modified, or continued in the most recent filing for demand-side program approval, the commission shall reject the proposed tariff sheets within sixty (60) days of the electric utility's filing and may instead order the filing of interim tariff sheets that implement its decision and approval.

8. Commission Rule 4 CSR 240-20.093(4) requires Staff to submit a recommendation regarding its examination and analysis of the testimony and proposed tariff revision submitted by Ameren Missouri not later than thirty (30) days after the proposed tariff revision filing. Per Commission Rule 4 CSR 240-20.093(4), the purpose of Staff's recommendation is to assist the Commission in its decision as to whether the adjustments to the DSIM cost recovery revenue requirement and DSIM rates are in accordance with the provision of Commission Rule 4 CSR 240-20.093, Mo. Rev. Stat. § 393.1075 (Supp. 2013), or the DSIM established, modified, or continued in the most recent filing for demand-side program approval.

9. As stated above, on December 19, 2014, Staff filed its Recommendation which suggested that the Commission approve the proposed tariff sheet submitted by Ameren Missouri.¹⁰ Staff's Recommendation did not specify whether the adjustments to the DSIM cost recovery revenue requirement and DSIM rates are in accordance with the provision of Commission Rule 4 CSR 240-20.093, § 393.1075, or the DSIM established, modified, or continued in the most recent filing for demand-side program approval.

10. The Commission's Rule 4 CSR 240-2.080(13) provides that "[p]arties shall be allowed not more than ten (10) days from the date of filing in which to respond to any pleading unless

¹⁰ EFIS, Item No. 7.

otherwise ordered by the commission.” Commission Rule 4 CSR 240-2.015 states: “A rule in this chapter may be waived by the commission for good cause.”

11. As Staff filed its recommendation on December 19, 2014, responses were due December 29, 2014, unless otherwise ordered by the Commission. Public Counsel asks that the Commission waive the ten (10)-day filing requirement in this case and grant Public Counsel additional time to respond to Staff’s Recommendation.

12. Public Counsel believes that good cause exists to grant its request. Public Counsel immediately began its review of Staff’s Recommendation in order to determine its position. However, Staff’s Recommendation was filed during the holiday time frame, which left only five (5) business days for review and response before the ten (10) day response date of December 29, 2014.

13. Additionally, Staff’s Recommendation raised new questions for Public Counsel that must be answered before Public Counsel can evaluate fully Staff’s Recommendation. In order to seek answers to resolve these new concerns, Public Counsel diligently issued additional data requests to Ameren Missouri on December 23, 2014. Commission Rule 4 CSR 240-2.085(2)(C) allows a party twenty (20) days after receipt of a data request to provide its answer. Therefore, responses by Ameren Missouri to Public Counsel’s data requests are not due until January 12, 2015.

14. Because responses to these data requests are necessary before Public Counsel can evaluate fully Staff’s Recommendation and determine its position, Public Counsel requests additional time, up to and including January 16, 2015, to respond to Staff’s Recommendation. In the absence of the clarifying data provided in the data request responses, Public Counsel would object to Staff’s Recommendation and ask the Commission to reject the tariff sheets.

Motion to Suspend Tariff Sheet

15. As stated above, the proposed revised tariff sheet filed by Ameren Missouri has an effective date of January 27, 2015.¹¹

16. To preserve the status quo and permit the parties and the Commission a full and fair opportunity to evaluate the merit of Ameren's proposed tariff sheets, including at a hearing before the Commission if necessary, Public Counsel believes it is prudent to suspend the effective date of the tariff sheets.¹²

17. Section 393.150 offers that the Commission may suspend proposed tariff sheets:

Whenever there shall be filed with the commission by any...electrical corporation...any schedule stating a new rate or charge, or any new form of contract or agreement, or any new rule, regulation or practice relating to any rate, charge or service or to any general privilege or facility...

for a maximum period of one hundred twenty (120) days plus six (6) months.¹³ The tariff sheets proposed in this instant matter qualify for treatment under the broad language of § 393.150. Nothing in the later-adopted MEEIA statute stands in conflict, either directly or even indirectly, with the suspension provision of § 393.150.¹⁴

18. Additionally, Commission Rule 4 CSR 240-20.093 contains provisions enabling the Commission to suspend or extend the sixty (60)-day timeline for tariff approval set forth in that Rule.¹⁵

19. Public Counsel does not believe an extended suspension of the effective date is necessary in this case. But, out of abundance of caution, and to allow for a full review of the outstanding

¹¹ EFIS, Item No. 2.

¹² Mo. Rev. Stat. § 393.150 (2000 & Supp. 2013).

¹³ Id.

¹⁴ See Mo. Rev. Stat. § 393.1075 (Supp. 2013).

¹⁵ 4 CSR 240-20.093(13); see also 4 CSR 240-20.093(4)(D) (enabling the Commission to delay resolution and effectively suspend the tariff sheets where the filing requirements of 4 CSR 240-3.163(8) are alleged not to have been met and the dispute is ongoing).

data request responses and any potential hearing that may be needed thereafter, Public Counsel requests that the Commission suspend the effective date of the proposed tariff sheet filed by Ameren Missouri for sixty (60) days to March 28, 2015.

WHEREFORE, the Office of the Public Counsel respectfully submits the foregoing response to the Commission's December 30, 2014 order in the above-captioned case.

Respectfully Submitted,

OFFICE OF THE PUBLIC COUNSEL

/s/ Tim Opitz
Tim Opitz
Assistant Counsel
Missouri Bar No. 65082
P. O. Box 2230
Jefferson City MO 65102
(573) 751-5324
(573) 751-5562 FAX
Timothy.opitz@ded.mo.gov

/s/ Christina L. Baker
Christina L. Baker
Deputy Public Counsel
Missouri Bar No. 58303
P O Box 2230
Jefferson City, MO 65102
(573) 751-5565
(573) 751-5562 FAX
christina.baker@ded.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all counsel of record this 5th day of January 2015:

/s/ Christina L. Baker