

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 28th day of
November, 2012.

In the Matter of Ameren Missouri's Request)	<u>Case No. ET-2013-0197</u>
for Variance from Portions of 4 CSR 240-20.065.)	Tariff No. YE-2013-0208

ORDER APPROVING TARIFF

Issue Date: November 28, 2012

Effective Date: November 29, 2012

On October 29,¹ Union Electric Company d/b/a Ameren Missouri ("Ameren") filed revised tariff sheets that would amend its net metering program. According to Ameren, the revised tariff sheets are required to be filed according to Commission rules that became effective on August 30. The tariff sheets carry an effective date of November 28. However, Ameren extended the effective date to November 29.

The Commission's Staff filed a Recommendation of Non-Opposition to Tariff Filing Upon Commission Determination of Good Cause on November 15. Staff does not oppose the tariffs going into effect as it believes the tariffs carry out the purpose of the rule. However, Staff does not believe Ameren has stated good cause for the variances that Ameren requests via its tariff filing.

Good cause "generally means a substantial reason amounting in law to a legal excuse for failing to perform an act required by law."² Similarly, "good cause" has also

¹ All dates are in 2012.

² *Black's Law Dictionary* 692 (6th ed. 1990).

been judicially defined as a “substantial reason or cause which would cause or justify the ordinary person to neglect one of his [legal] duties.”³

Of course, not just *any* cause or excuse will do. To constitute *good* cause, the reason or legal excuse given “must be real not imaginary, substantial not trifling, and reasonable not whimsical.”⁴ And some legitimate factual showing is required, not just the mere conclusion of a party or his attorney.⁵

The Commission finds that Ameren’s assertion of customer benefits and ease of administration for the company rise to the level of good cause. Based on the recommendation of its Staff, the Commission will approve the tariff sheets.

THE COMMISSION ORDERS THAT:

1. The following tariff sheets filed by Union Electric Company d/b/a Ameren Missouri on October 29, 2012, and assigned Tariff No. YE-2013-0208, are approved to become effective on November 29, 2012:

PSC Mo. No. 5

3rd Revised Sheet No. 8, CANCELLING 2nd Revised Sheet No. 8
4th Revised Sheet No. 9, CANCELLING 3rd Revised Sheet No. 9
3rd Revised Sheet No. 13, CANCELLING 2nd Revised Sheet No. 13
3rd Revised Sheet No. 13, CANCELLING 2nd Revised Sheet No. 13
3rd Revised Sheet No. 14, CANCELLING 2nd Revised Sheet No. 14
4th Revised Sheet No. 15, CANCELLING 3rd Revised Sheet No. 15
3rd Revised Sheet No. 16, CANCELLING 2nd Revised Sheet No. 16
3rd Revised Sheet No. 17, CANCELLING 2nd Revised Sheet No. 17

³ *Graham v. State*, 134 N.W. 249, 250 (Neb. 1912). Missouri appellate courts have also recognized and applied an objective “ordinary person” standard. *See, e.g., Cent. Mo. Paving Co. v. Labor & Indus. Relations Comm’n*, 575 S.W.2d 889, 892 (Mo. App. W.D. 1978) (“[T]he standard by which good cause is measured is one of reasonableness as applied to the average man or woman.”)

⁴ *Belle State Bank v. Indus. Comm’n*, 547 S.W.2d 841, 846 (Mo. App. S.D. 1977). *See also Barclay White Co. v. Unemployment Compensation Bd.*, 50 A.2d 336, 339 (Pa. 1947) (to show good cause, reason given must be real, substantial, and reasonable).

⁵ *See generally Haynes v. Williams*, 522 S.W.2d 623, 627 (Mo. App. E.D. 1975); *Havrisko v. U.S.*, 68 F.Supp. 771, 772 (E.D.N.Y. 1946); *The Kegums*, 73 F.Supp. 831, 832 (S.D.N.Y. 1947).

3rd Revised Sheet No. 18, CANCELLING 2nd Revised Sheet No. 18
3rd Revised Sheet No. 13, CANCELLING 2nd Revised Sheet No. 13
1st Revised Sheet No. 19, CANCELLING Original Sheet No. 19
Original Sheet No. 20

2. This order shall become effective on November 29, 2012.
3. This case shall be closed on November 30, 2012.

BY THE COMMISSION



Steven C. Reed
Secretary

(S E A L)

Gunn, Chm., Jarrett, Kenney,
and Stoll, CC., concur.

Pridgin, Senior Regulatory Law Judge