

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

In the Matter of Union Electric Company)
d/b/a Ameren Missouri's 3rd Filing to)
Implement Regulatory Changes in Furtherance) File No. EO-2018-0211
of Energy Efficiency as allowed by MEEIA.)

**RESPONSE TO MOTION FOR INCLUSION OF PROPOSAL IN FURTHERANCE OF
STAFF'S REPORT ON DISTRIBUTED ENERGY RESOURCES**

COMES NOW Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri" or "Company") and submits to the Missouri Public Service Commission ("Commission") this *Response to the Motion for Inclusion of Proposal in Furtherance of Staff's Report on Distributed Energy Resources* ("*Response*"). In support of its *Response*, the Company states as follows:

1. On February 1, 2018, pursuant to 4 CSR 240-4.017(1), Ameren Missouri submitted its *Notice of Case Filing* ("*Notice*") in this proceeding, noting that it would be submitting its Missouri Energy Efficiency Investment Act ("MEEIA") Cycle 3 application on or after April 2, 2018.

2. On April 26, 2018, Staff submitted its *Motion for Inclusion of Proposal in Furtherance of Staff's Report on Distributed Energy Resources* ("*Staff Motion*"). At page 2 of the *Staff Motion*, Staff requested the Commission to:

...direct Ameren Missouri to include in its MEEIA Cycle 3 application a response to Staff's recommendations made in its April 5, 2018, Staff Report. Specifically, Staff requests the Commission encourage Ameren Missouri to submit a proposal and exemplary tariffs in its pending MEEIA Cycle 3 application, related to demand response and the Indiana Model.¹

3. Ameren Missouri takes no issue with the Staff's recommendation for Ameren Missouri to submit a proposal and exemplary tariffs related to distributed energy resources ("DER") and associated demand response ("DR") constructs, and in fact, has already been

¹ The referenced Staff Report was submitted in File No. EW-2017-0245 on April 5, 2018.

exploring such programs for inclusion in its MEEIA Cycle 3 case. However, the Company is concerned by the vehicle through which Staff has made this recommendation. 4 CSR 240-4.017 (1) provides that when a person intends to file a case before the Commission, they must first file a notice at least sixty (60) days prior to filing that case. This notice is intended to prohibit any inappropriate communications between a party and the Office of the Commission in advance of a case filing when the issues discussed will become substantively important. The rule specifically anticipates no action, pleadings, or orders associated with the File Number before the actual case is filed. In other words, the 60-day notice is intended as an ex parte protection, and not as an avenue to obtain Commission decisions before the case itself exists. If filing a 60-day notice and thus creating a file is transformed into an opportunity to begin pre-litigation and predetermination of issues, the intent of the rule to avoid inappropriate communications before a case is filed becomes moot.

4. Indeed, the Commission’s Chief Regulatory Law Judge has previously indicated, when parties sought to intervene in a file (before the case itself had commenced), that there was no case in which to intervene because the “[utility] could decide not to file the case at all.”² Ameren Missouri does intend to file a MEEIA Cycle 3 case, but since seeking approval of energy efficiency programs under MEEIA is voluntary, it is logically possible that the Company might “decide not to file the case at all.” There simply is no case until it is filed and there is no statutory authority (express or implied) for the Commission to order a particular MEEIA program or measure be offered since such programs don’t have to be offered at all.

5. That said, Ameren Missouri does not object to including what Staff recommends in the MEEIA Cycle 3 filing it plans to make; in fact, the Company already plans to submit tariffs

² Tr., Vol 1, p. 24, ll. 11 – 19; p. 25, ll. 14-16 (File No. ER-2012-0166).

proposing a DR program. Consequently, not only is there no case in which to issue the order the Staff seeks, but such an order is unnecessary.

WHEREFORE, for the reasons outlined above, Ameren Missouri requests the Commission decline to take preemptive action in this matter.

Respectfully submitted,

/s/ Paula N. Johnson

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served on the Staff Counsel of the Commission and the Office of the Public Counsel via electronic mail (e-mail) on this 1st day of May, 2018.

/s/ Paula N. Johnson _____

Paula N. Johnson