

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

In the Matter of the Application of)	
Union Electric Company d/b/a)	Case No. ET-2021-0082
Ameren Missouri for Approval of)	Tracking No. YE-2021-0081
Its Surge Protection Program.)	

AMEREN MISSOURI’S STATEMENT OF POSITIONS

COMES NOW Union Electric Company d/b/a Ameren Missouri (“Ameren Missouri”), and in accordance with the Commission’s January 13, 2021 *Order Adopting Procedural Schedule*, hereby submits its Statement of Positions on the issues agreed upon in the *List of Issues and Order of Witnesses and Order of Cross-Examination* filed by the Staff on behalf of the parties, as follows:

1. May Ameren Missouri lawfully offer its proposed surge protection program as a regulated program?

Yes. The surge protection devices to be installed for the proposed program will clearly be property of Ameren Missouri, an electrical corporation and public utility under the Commission’s jurisdiction, that will be used in connection with Ameren Missouri’s sale or furnishing of electricity to its retail customers. Consequently, under the plain terms of Section 386.0020(14), RSMo. (Cum. Supp. 2020), the surge protection devices are “electric plant” includable in Ameren Missouri’s rate base. Moreover, the proposed program is also clearly a use or accommodation to be provided by Ameren Missouri which, as noted, is a public utility, in furnishing a service – the surge protection program – to its customers. *See* Section 386.020(48), RSMo. (Cum. Supp. 2020). The law does not require that a service such as the proposed surge protection program be absolutely necessary or essential to the furnishing of basic electric (utility) service to be offered as a regulated program, as the definitions of “electric plant” and “service” show. Neither of those definitions expressly or by implication contain an “absolute necessity” requirement. That the surge protection

program can be offered as a regulated program is consistent with the Commission's historical practice. For example, prior to the adoption of MEEIA,"¹ Missouri electric utilities (and gas utilities, which are not in any event subject to MEEIA), offered energy efficiency programs, including non-low-income programs, as regulated programs whereby customers had the option (but were not required) to participate in the program and to receive incentives or other services paid for with utility funds with those expenditures included in the utility's rates. The utilities were fully able to offer safe and adequate (electric or gas) service without the optional energy efficiency programs, but that did not mean that the optional energy efficiency programs were not properly offered as regulated programs. Ameren Missouri witness Tom Byrne discusses these programs and other similar utility initiatives at pages 5 to 7 of his surrebuttal testimony.

2. If it is lawful, should the Commission approve an Ameren Missouri surge protection program and treat the revenue, expense and investment associated with it as a regulated activity?

Yes, including for the reasons discussed in response to Issue No. 1 above. Treating the program as a regulated program and including its financial impacts in the revenue requirement used to set rates each time a rate review occurs is good public policy. As the Company's financial analysis shows, the proposed program is expected to generate revenues significantly above its costs over time, with an expected cumulative net benefit to non-participants over the next twenty years of more than \$40 million. Those projections are conservative in that they only account for a program that adds participants from year one to five when, in fact, the Company expects to continue to operate the program in the long-term and plans to continue to add program participants well beyond year five. Consequently, it is expected that the cumulative benefits reflected in rates

¹ Missouri Energy Efficiency Investment Act.

will be even higher. Using those same conservative assumptions, on a net present value basis the program is expected to produce more than \$28 million of benefits and, even in the worst case, more than \$3.5 million of benefits.

The proposed program is specifically designed to produce those kinds of benefits because it is a part of the Company's larger, ongoing initiative of taking steps where it can, to promote the affordability of its electric service, including by generating new revenues to offset its revenue requirement. This allows Ameren Missouri to provide better service by offering customers an optional service that meets their needs or wants, while growing overall revenues to all customers' benefit. Moreover, Commission regulation of such programs is in the public interest for the very reason that the Commission can then have oversight and control over the program to ensure that its terms and charges are just and reasonable. This is not the first program the Company has brought to the Commission as part of its affordability initiative, having also sought and obtained approval of a Charge Ahead Electric Vehicle program in 2019. See *Order Approving Stipulation and Agreement*, File No. ET-2018-0132. Both this proposed program and Charge Ahead are intentionally designed to produce new revenues above the marginal cost of operating the program, and therefore contribute to covering the fixed costs of providing electric service and ultimately to reduce rates for all customers from what those rate levels would otherwise have to be to cover the Company's fixed costs.

As Ameren Missouri witness Tom Byrne addresses in his surrebuttal testimony, not allowing this program to be offered as a regulated service would be bad public policy.² Today many utility customers want options in their electric service, including things like the Company's voluntary but optional Community Solar offering, the EV charging program noted earlier, energy

² Byrne Surrebuttal, pp. 7-9.

efficiency programs, and the proposed surge protection program at issue in this case. Confining utilities only to what they have “traditionally” done or to what is absolutely necessary to provide basic service will not provide them with the convenience, control, and choice they deserve, and it would likely preclude them from meeting future customer needs and expectations that could be met as the industry evolves and as we are able to take advantage of a greater proliferation of distributed energy resources, multi-directional power flows, advanced communication capabilities and other modern technology.

3. If the Commission determines it is appropriate to regulate Ameren Missouri’s surge protection program:

A. Should it authorize Ameren Missouri to offer its program at the proposed rate and under the requested tariff provisions?

Yes, with two changes. First, the program tariff should be clarified as outlined at page 11, lines 4-7 of Ameren Missouri witness Jared Schneider’s surrebuttal testimony, to clarify the provision regarding lightning strikes. Second, the Commission should condition its program approval on the report submission recommended by Mr. Byrne at page 12, lines 6- 12 of his surrebuttal testimony.

B. Should the Commission impose a condition on any approval of the program that requires Ameren Missouri to hold non-participating customers harmless from the revenue requirement associated with the surge protection program?

No. The Commission should approve the program as a regulated program, based on the record evidence indicating that it is highly likely to produce a net benefit for all customers over time. As noted, the Commission should also impose the condition recommended by Mr. Byrne,

which will allow an examination of the program's performance, including whether continuing to offer it as a regulated program is just and reasonable.

4. Should the Company provide customer education and outreach in conjunction with any program that may be authorized?

Yes, and the Company will do so because it is in the Company's interest as well as that of its customers to properly market the program and educate prospective and participating customers about its terms.

5. Should the Commission require any specific accounting treatment related to the program, apart from that accounting required by the Uniform System of Accounts?

No, Ameren Missouri's accounting in compliance with the Uniform System of Accounts ("USoA") is the only accounting that should be required. However, as discussed by Ameren Missouri witness Mitchell J. Lansford in his surrebuttal testimony, Ameren Missouri is willing to use managerial accounting (i.e., subaccounts/coding) to capture discrete, incremental costs and revenues from the program, such as the investment in the devices, depreciation of those investments, payments to the third-party administrator who will run the program and participant revenues. Additional accounting is unnecessary and impractical, as discussed by Mr. Lansford (see specifically, page 3, l. 5 to page 4, l. 4 of Mr. Lansford's surrebuttal testimony).

A. Should Ameren Missouri be required to separately designate depreciation expense and return (as defined in Section 393.1400, RSMo.) on capital investments made in the program and included in the PISA deferral mechanism?

Ameren Missouri will calculate this impact and provide such analysis in conjunction with future rate cases.

B. Should Ameren Missouri be required to maintain all program records?

Ameren Missouri will do so in accordance with its records retention policies. The primary program records are expected to be accounting and regulatory records. General and subsidiary ledgers, general and subsidiary journals, journal vouchers, and significant or required analyses provided to the Commission require permanent retention under the policy.

WHEREFORE, Ameren Missouri hereby submits its Statement of Positions and requests program approval in accordance herewith.

Respectfully submitted,

/s/ James B. Lowery

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**ATTORNEYS FOR UNION
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail, or First Class United States Postal Mail, postage prepaid, on this 5th day of April 2021, to all counsel of record.

/s/ James B. Lowery