

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

In the Matter of the Application)	
Of Union Electric Company)	Case No. ET-2016-0246
d/b/a Ameren Missouri for Approval)	
of a Tariff Setting a Rate for)	Tracking No. YE-2017-0030
Electric Vehicle Charging Stations)	

**INITIAL BRIEF OF KANSAS CITY POWER & LIGHT
COMPANY AND KCP&L GREATER MISSOURI
OPERATIONS COMPANY**

COME NOW Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company (collectively, “KCP&L”), and pursuant to 4 CSR 240-2.140 and *Order Granting Motion For Extension Of Time To File Initial Briefs* issued on February 9, 2017, provides the Commission with its Initial Brief on the issues in this case.

INTRODUCTION

KCP&L has an interest in this proceeding as it has created the Clean Charge Network (“CCN”) which will include more than 1,000 Electric Vehicle Charging Stations throughout its Missouri and Kansas service territories. While KCP&L believes the Commission should narrowly resolve the issues in this case, as suggested by Ameren Missouri’s counsel (Tr. 26), some of the issues being inserted into this proceeding by some parties may have a direct and possibly adverse impact upon KCP&L’s CCN. This is particularly true if the Commission adopts Staff’s position on cost recovery of such networks in this proceeding.

From KCP&L’s perspective, it is important that the Commission adopt policies that will promote and be supportive of the development of EV charging stations at this early stage of market and network development. EV charging services should be considered as regulated electric service with all prudent investments included in the revenue requirement of the public

utility. (Ex. No. 651, Rush Surrebuttal, p. 3)

Mr. Rush summarized KCP&L's position as follows:

"I believe that the Commission should approve Ameren's and KCP&L's EV tariffs and allow recovery of EV charging station costs because:

- (1) utilities are the only entity legally authorized to provide public EV charging stations in Missouri;
- (2) there is a demand for the charging stations;
- (3) program costs and impacts to customers are small in relation to ongoing utility operating costs;
- (4) the data collected from the program will be instrumental in crafting appropriate regulatory and legislative changes to allow non-utilities to participate in the market, and
- (5) securing legislative changes to allow non-utilities to provide the service will take significant time, in the meantime EV drivers need to be provided safe and adequate service,
- (6) The economic development and other benefits flowing from EV charging stations offer value to customers, Missouri utilities, the Commission and the State of Missouri."

(Ex. No. 651, Rush Surrebuttal, pp. 4-5)

LIST OF ISSUES

- 1. Does the Commission have jurisdiction to regulate utility-owned and operated electric vehicle charging stations operated in a utility's service area?**

KCP&L Position: Yes, the Commission has jurisdiction to regulate utility-owned and operated electric vehicle charging stations operated in a utility's service area.

Section 386.020(43) RSMo. defines a "public utility" as any "electrical corporation" "owning, operating or controlling or managing any electric plant. . ." ¹ Ameren Missouri and

¹ Section 386.020(43) RSMo. states: "Public utility" includes every pipeline corporation, gas corporation, electrical corporation, telecommunications company, water corporation, heat or refrigerating corporation, and sewer corporation, as these terms are defined in this section, and each thereof is hereby declared to be a public utility and to be subject to the jurisdiction, control and regulation of the commission and to the provisions of this chapter." (emphasis added)

KCP&L are both “electrical corporation[s],”² owning, operating, controlling and managing the electric vehicle charging stations. The electric vehicle charging stations are “electric plant” under Section 386.020(14)³ which facilitates the distribution, sale or furnishing of electricity for power.

Missouri case law has imposed the further requirement that such service must be offered “for public use.” See State ex rel. Danciger and Co. v. Public Service Commission of Missouri, 275 Mo. 483, 205 S.W. 36 (1918). Relying on Danciger, the federal court in City of St. Louis v. Mississippi River Fuel Corporation, 97 F.2d 726 (8th Cir. 1938), stated that the public use of a service is the deciding factor in determining whether an operation is a “public utility” under Missouri law. It concluded that “under Missouri law the term ‘for public use’ . . . means the sale . . . to the public generally and indiscriminately, and not to particular persons upon special contract.” Id. at 730. The City of St. Louis court cited with favor the following definition:

To constitute a public use all persons must have an equal right to the use, and it must be in common, upon the same terms, however few the number who avail themselves of it. Id.

The Commission should conclude that Ameren Missouri (and KCP&L) are providing electrical service through the electric vehicle charging stations as a public utility. The service will be available to any electric vehicle driver that wishes to avail themselves of the electric service. The Commission should conclude that the electric vehicle charging stations are part of the public utility’s regulated local distribution network which is necessary to provide electricity to the electric vehicles. As such, Ameren Missouri’s proposed EV charging stations and KCP&L’s CCN

² Section 386.020(15) RSMo. defines electrical corporation as: “Electrical corporation” includes every corporation, company, association, joint stock company or association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, other than a railroad, light rail or street railroad corporation generating electricity solely for railroad, light rail or street railroad purposes or for the use of its tenants and not for sale to others, owning, operating, controlling or managing any electric plant except where electricity is generated or distributed by the producer solely on or through private property for railroad, light rail or street railroad purposes or for its own use or the use of its tenants and not for sale to others. (emphasis added)

³ Section 386.020(14) RSMo. states: “Electric plant” includes all real estate, fixtures and personal property operated, controlled, owned, used or to be used for or in connection with or to facilitate the generation, transmission, distribution, sale or furnishing of electricity for light, heat or power; and any conduits, ducts or other devices, materials, apparatus or property for containing, holding or carrying conductors used or to be used for the transmission of electricity for light, heat or power; (emphasis added)

facilities should be treated as electric plant needed to provide electric service through EV charging stations to electric vehicle drivers as a public utility service.

2. Are there public benefits realized from the installation of electric vehicle charging stations, specifically if the Commission were to approve Ameren Missouri's proposed pilot project?

KCP&L Position: Yes. KCP&L supports the position of Ameren Missouri on this issue. (Ex. No. 3, Direct Testimony of Tom Byrne, pp. 4-6) Ameren Missouri's witness Tom Byrne identified four public policy benefits:

1) By allowing Ameren Missouri to "dip its toe in the water of vehicle charging", Ameren Missouri, the Commission, and other stakeholders will have the opportunity to get "hands on" experience in this developing area;

2) In spite of the small scale and cost of the proposed pilot, placing charging stations along I-70 will remove a significant barrier to electric vehicle purchases;

3) Approval of this pilot will have real, tangible benefits for all of Ameren Missouri's customers, the general public, and the state of Missouri; and

4) Approval of this pilot is consistent with state policy as embodied in the Missouri Comprehensive Statewide Energy Plan ("Energy Plan") and the Missouri Department of Transportation's Road to Tomorrow initiative. (Ex. No. 3, Byrne Surrebuttal, pp. 4-6)

As KCP&L explained in its last rate case⁴, there are five areas of customer and public benefit that KCP&L believes EV charging station projects, mainly in regards to the CCN but also in relation to Ameren's proposed pilot, can provide:

⁴ See KCP&L Initial Brief, Case No. ER- 2014-0370, pp. 118-126.

- **Beneficial Electrification:** More efficient use of the electrical grid through increased electrical sales during off-peak times. As more drivers adopt electric vehicles, not only will vehicle emissions be reduced, but the cost of operating and maintaining the electrical grid will be spread over more kilowatt-hours without causing increased investment in additional generation and grid upgrades.

- **Environmental Benefits:** Environmental and health benefits through reducing tailpipe emissions—in particular regional ozone emissions and compliance, carbon dioxide reduction as part of state compliance with the Clean Power Plan, and reductions in other EPA categorized pollutants.

- **Economic Development:** Regional economic development through increased attraction of auto industry, electric vehicle industry, battery and charging station companies to the KCP&L service territory; local job creation through increased household spending on local goods and services rather than at the gas pump; direct and indirect job creation from electric vehicle charging station deployment, electric vehicles sales and servicing; and increased talent recruitment in competitive job categories such as STEM (Science, Technology, Engineering, Math) and IT jobs.

- **Customer Programs:** Network enabled customer programs for cost-effective demand side management, time of use incentives/rates, and vehicle to grid battery storage and discharge.

- **Cost and Efficiency Benefits:** Cost and design benefits through installation and operation of charging station installations as part of the electrical grid resulting in

- Reduced cost of equipment and installation, streamlining infrastructure through central design, enabling easier expansion, creating one regional standard for payment;

- Reduced expense resulting from electric vehicle charging stations utilization of the electrical grid;

- Study the value of integration with other components of the grid, such as demand response and solar installations; and

- Increased efficiency and decreased cost of charging station infrastructure through streamlined design, deployment where data shows capacity is needed, reduced maintenance costs and economies of scale.

Charging station deployment and demand can be factored into utility grid planning and reduce the cost of meeting increased demand and maintaining the grid. Since all customers will benefit from this investment, it is logical that all pay for some portion of the investment. As explained by Ameren Missouri's witness Byrne, it is a modest investment that is expected to produce benefits for all customers. Ameren Missouri hopes to learn from these installations, gathering information during the pilot period to be shared with stakeholders in developing a longer term view. (Ex. No. 3, Byrne Surrebuttal, pp. 4-6)

For all these reasons, the Commission should conclude that Ameren Missouri's EV charging station pilot project is in the public interest, and should be approved.

3. Rates

Does Ameren Missouri's proposed tariff represent the proper rate design for its EV charging station pilot project?

KCP&L Position: KCP&L takes no position on this issue.⁵

4. Cost Recovery

In this proceeding, Staff counsel announced during the opening statement that the Staff has modified its position on cost recovery of investments in EV charging stations for public utilities. According to Staff counsel Kevin Thompson, Staff is now asserting that EV charging station investments should be considered a regulated service and booked above-the-line. (Tr. 64-67)

⁵ KCP&L reserves the right to assert any position related to its own rates, and the accounting treatment for the costs and revenues associated with its Electric Vehicle ("EV") Charging Station Tariff in Case No. ER-2016-0284 and/or any future proceeding involving KCP&L's EV charging station services.

However, Staff apparently intends to make revenue imputation adjustments in future rate cases in the event the revenues from such EV charging stations do not recover their costs. (Tr. 64-66) Staff's position on revenue imputation is short-sighted and should not be adopted by the Commission.

All customers will derive some benefits from the program in the form of cleaner air, state economic development and increased electric usage over which Ameren Missouri's fixed costs are spread. In the future, there may be some subsidy required for an Ameren Missouri pilot project, but the amount of that subsidy will be miniscule. (Ex. No. 3, Byrne Surrebuttal, p. 6) As Mr. Byrne pointed out, there are "subsidies" prevalent and inherent in almost all forms of public utility services:

It is important to note that some degree of subsidy is inherent in the provision of almost all utility services. For example, residential customers who live close to electric generating plants subsidize those who live farther away. Higher load factor industrial customers may subsidize lower load factor customers in the same rate class. Higher income customers subsidize lower income customers who take advantage of programs such as Ameren Missouri's low income weatherization program. There is nothing wrong with some degree of subsidization in support of a program that provides public benefits. In this case, the level of subsidy is so small compared to the benefits it provides no reason to reject the program.

Perhaps more importantly, the Commission should not expect public utility shareholders to bear the burden of the cost of providing a new technology and service to an emerging market when that service is expected to produce substantial benefits to all ratepayers in the future. The Staff seems to want the benefits of the service when it is profitable (i.e. profits will be included in rates)⁶, but not the initial start-up costs of producing those benefits. (Tr. 66, 71-73). Such a position is not fair and reasonable, and is not lawful.

⁶ Contrary to the position suggested by Staff counsel in the hearing (Tr, 73), if the costs and revenues are placed above-the-line in the future when the service is profitable and fully covering its costs, then shareholders will not receive the benefit of the service. Instead, the profits (both costs and revenues) will be reflected in customers' rates and will directly benefit the customers and not shareholders. Under Staff's proposal, investors will bear the risk of developing the market, but will not receive the benefit of that market once it is developed.

WHEREFORE, Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company request that the Commission adopt their position on the issues in this case.

Respectfully submitted,

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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 17th day of February, 2017, to all counsel of record.

/s/James M. Fischer

James M. Fischer