

**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)	
For Authorization to Enter into a Contract)	File No. EM-2021-0309
With a Third-Party for Utilization of Fiber)	
Optic Capacity Not Currently Utilized for)	
Electric Operations.)	

**VERIFIED APPLICATION TO
LEASE FIBER CAPACITY**

COMES NOW Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri" or "Company") under 20 CSR 4240-2.060 and 20 CSR 240-10.105, and for its application for approval of a lease of fiber optic strands within fiber optic cable installed, maintained, and operated for Ameren Missouri’s provision of electric service to its customers, states as follows:

I. REQUEST FOR AUTHORIZATION UNDER SECTION 393.190.1¹

1. Ameren Missouri owns and operates communications infrastructure used for its provision of electric service to its customers, including fiber optic cable that is part of the Optical Ground Wire Cable (“OPGW”) that is installed throughout its electric transmission system. The fiber optic cable is used for a variety of growing communication needs, including to operate Ameren Missouri’s SCADA system,² for protection and control of its transmission lines, for other Company voice and communication needs, and more specifically in the case of the transmission system, for line differential relaying, high-speed stability protection, and to provide synchrophasor capabilities. A typical fiber optic cable included within OPGW installed today generally consists of 72 to 96 strands, not all of which are currently needed for electric service purposes but which, over time, are expected to

¹ All statutory references are to the Revised Statutes of Missouri (2000), unless otherwise indicated.

² Supervisory Control and Data Acquisition.

be needed for electric service. With the expectation for fiber connectivity of grid technologies growing as technologies advance, it is impossible to predict precisely how much fiber will be necessary for reliable grid operations throughout the useful life of OPGW being installed today, but since the majority of the cost of deploying fiber consists of on-site construction and the labor necessary to complete the installation, it is far more cost-effective when installing fiber optic cable to install cable with more strands than may be needed earlier in the life of the cable to avoid the high cost of redeploying new cable prior to the end of the original cable's life. Do so allows those communication needs to be met without incurring the high cost of installing new cable.

2. The existence of fiber capacity not needed for electric operations today affords Ameren Missouri the opportunity to lease or otherwise contract with third parties (such as telecommunications providers) for their use of such excess capacity in exchange for fees for that use. This enables Ameren Missouri to capture those revenues, for virtually no additional cost since the OPGW and the fiber optic cable contained therein are already installed and operated by Ameren Missouri,³ and to ultimately reflect those revenues in revenue requirements used to set its electric service rates. This Application involves such a lease.

3. Specifically, Ameren Missouri has entered into a Dark Fiber Lease Agreement (the "Lease") with internet services provider MCC Network Services, LLC ("Lessee"). A confidential copy of the Lease is attached hereto and incorporated herein by this reference as **Exhibit A**. The effectiveness of the Lease is contingent on the Commission's approval of this Application. Under the Lease, Lessee will lease 12 strands of "dark fiber" over an approximately 1.67-mile portion of Ameren Missouri's

³ The OPGW within which the leased fibers are housed is currently being installed as part of Ameren Missouri's Intelligrid initiative, which is an ongoing effort to replace aging and outdated communications infrastructure, including in replacement of services formerly obtained from the traditional telephone companies which, in some cases are or soon will be no longer available, or which are no longer the most cost-effective means of meeting the Company's communications needs. The fiber involved in the Lease is expected to be operational later this year, which is when the Lease term would begin.

Sioux to Meppen 345 kilovolt transmission line where it crosses the Mississippi River between Missouri and Illinois. The Lease term is for 20 years, and can be extended by mutual agreement, and includes annual payments to lease the fiber. Upon 780 days' notice, Ameren Missouri may terminate the lease without any financial or other liability if during the term Ameren Missouri needs the leased fibers for its own purposes. Lessee may terminate the lease but if it does so, it must pay a termination fee equal to the sum of (a) 75% of all remaining "maintenance fees" that would otherwise have been paid for the rest of the term, and (b) 100% of all annual "lease payments" that would otherwise have been paid for the rest of the term.⁴ Lessee will install its own vaults on each of the Missouri and Illinois sides of the river, where the 12 leased strands will be spliced into Lessee's communications network. In making its splices, Lessee is prohibited from accessing the power space on the Company's structures and will have no access to Ameren Missouri's remaining communications infrastructure. Lessee may not resell or sublease the leased fibers or the capacity therein.

4. As noted, the revenues received under the Lease will offset Ameren Missouri's revenue requirement in each of its electric rate cases. Specifically, like other revenues received from leases of Company property, and for items like pole attachment fees, the revenues will be recorded to FERC Account 454 and a normal annualized level of such revenues should be included in the revenue requirement in each rate case.

5. Leasing the fiber optic strands to MCC as proposed herein will have no impact on Ameren Missouri's operations since it will not impair, interfere with, or limit Ameren Missouri's ability to provide safe and adequate service to its customers, nor will it impair, interfere with, or limit Ameren Missouri's communication-related needs in providing that service. Consequently, this Application,

⁴ In the fiber leasing business, contracts are typically structured with separate "lease payments" and "maintenance fees," which, in some cases, make sense given that in some cases the fiber is being installed solely for use of the lessee. For the Lease at issue here, however, both the "lease" and "maintenance" payments are simply for the Lessee's right to utilize the leased strands but this industry terminology has been used in the Lease due to the customer's familiarity with the terms.

which requests permission to lease these fiber optic strands pursuant to Section 393.190.1, meets the “not detrimental to the public interest” standard applicable to such requests. *See, e.g., Fee Fee Trunk Sewer Co v. Litz*, 596 S.W.2d 466, 468 (Mo. App., W.D. 1980) (“The Commission may not withhold its approval of the disposition of assets unless it can be shown that such disposition is detrimental to the public interest.” *Citing State ex rel. City of St. Louis v. Pub. Serv. Comm’n*, 73 S.W.2d 393, 400 (Mo. banc 1934)).

II. FILING REQUIREMENTS FOR APPLICATIONS TO LEASE ASSETS

6. In support of its Application and in compliance with 20 CSR 4240-2.060(1) and 20 CSR 4240-10.105, Ameren Missouri provides the required information in the following sections of this Application:

- 20 CSR 4240-2.060(1), (A) through (M) – General Application Requirements
- 20 CSR 4240-10.105(1) (A) through (F) – Request for Approval of Lease

2.060(1)(A) – Applicant

7. The Company is a Missouri corporation doing business under the fictitious name of Ameren Missouri, organized and existing under the laws of the State of Missouri, in good standing in all respects, with its principal office and place of business located at One Ameren Plaza, 1901 Chouteau Avenue, St. Louis, Missouri 63103. The Company is engaged in providing electric and gas utility services in portions of Missouri as a public utility under the jurisdiction of the Commission.

2.060(1)(B) – Articles of Incorporation; (E) – Fictitious Name; (G) – Information Previously Submitted; (H) – Character of Business⁵

8. The Company previously submitted to the Commission a certified copy of its Articles of Incorporation (See Case No. EA-87-105), as well as its Fictitious Name Registrations as filed with the

⁵ Paragraphs (C), (D), and (F) do not apply to Ameren Missouri.

Missouri Secretary of State’s Office (See Case Nos. EA-2019-0181). The Company also provided a copy of a recent certified copy of its Certificate of Good Corporate Standing in File No. EF-2021-0176. These documents are incorporated by reference and made a part of this Application for all purposes.

2.020(1)I – Correspondence and Communication

9. Correspondence, communications, orders and decisions in regard to this Application should be sent to the undersigned counsel as well as:

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2.060(1)(K) – Actions, Judgments, and Decisions; (L) – Fees⁶

10. Ameren Missouri has no final unsatisfied judgments or decisions against it from any state or federal agency or court that involve customer service or rates that have occurred within three years of the date of this Application. By the nature of its business, the Company has, from time-to-time, pending actions in state and federal agencies and courts involving customer service or rates. Company has no annual report or assessment fees overdue to this Commission.

2.060(1)(M) – Affidavit

11. An Affidavit in support of this Application by an authorized individual is included below.

10.105(A) – Brief Description of the Property Involved in the Transaction

12. The property consists of 12 strands in the fiber optic cable included in the OPGW on the Sioux to Meppen transmission line over an approximately 1.67-mile span that crosses the Mississippi River between

⁶ Paragraph (J) does not apply to Ameren Missouri.

Missouri and Illinois. See Section I of this Application for more details.

10.105(B) – Copy of the Contract or Agreement of Sale

13. See the Lease attached hereto as **Exhibit A**, which is addressed in more detail in Section I of this Application.

10.105(C) – Verification of Proper Authority

14. A verification of proper authority affirming that Ameren Missouri's signatory to the Leases had the authority to bind the Company.

10.105(D) – Not Detrimental to the Public Interest

15. As outlined in Section I of this Application, the proposed lease is not detrimental to the public interest since there will be no adverse impact on Ameren Missouri or its operations, or on its customers resulting from the Lease. In fact, customers will benefit from the offset to revenue requirements used to set Ameren Missouri's electric rates the Lease revenues will provide.

10.105(E) – Purchaser's Balance Sheet and Income Statement

16. Because MCC is not subject to the Commission's jurisdiction, this Application does not include a balance sheet or income statement showing the results of the proposed lease.

10.105(F) – Statement of Tax Impact

17. There will be no tax impact arising from the proposed lease.

WHEREFORE, Ameren Missouri prays that the Commission make and enter its order authorizing the lease of the fiber optic strands pursuant to the terms of the Lease.

Respectfully Submitted,

/s/ James B. Lowery

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**ATTORNEYS FOR UNION ELECTRIC
COMPANY d/b/a AMEREN MISSOURI**

VERIFICATION

The undersigned, being first duly sworn and upon his oath, declares that he is of sound mind and lawful age; and further, under the penalty of perjury, hereby states that the foregoing Application is true and correct to the best of his knowledge, information, and belief, that he possessed the authority to execute and deliver the Lease and bind the Company thereto, and that the actions requested of the Commission in this docket are substantially consistent with the Company's preferred resource plan specified in its most recent triennial compliance filing.

/s/ Matthew A. Forck

Matthew A. Forck, Vice-President
Community, Economic Development and Energy Solutions
Union Electric Company d/b/a Ameren Missouri

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing was served on the Missouri Public Service Commission Staff and the Office of the Public Counsel via electronic mail (e-mail) or via regular mail on this 11th day of June, 2021.

/s/ James B. Lowery
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