

Program (“Charge Ahead – EV Program”) and the Efficient Electrification Program (“Charge Ahead – BS Program”).

The Charge Ahead – EV Program is predicated on using rates paid by Ameren Missouri’s customer base to reimburse Ameren Missouri for costs it will incur in the provision of incentives to defray development, deployment, and operation of electric vehicle charging stations. Union Electric Company, d/b/a Ameren Missouri, Application, Request for Variance, and Request for Accounting Authority, ¶ 7. [Dkt. 5.]

The Charge Ahead – BS Program is similarly predicated on using rates paid by ratepayers to offset the cost to Ameren Missouri of incentives it will offer to encourage third-party use of electric equipment in place of equipment fueled by propane, gasoline, or diesel. *Id.*, ¶ 6.

The question of whether the Commission should approve, reject or modify the Charge Ahead Program has been framed by the parties as being dependent on whether Ameren Missouri has provided sufficient evidence to show the Charge Ahead – EV and BS Programs are needed and cost effective; what cost recovery mechanisms may be appropriate for these Programs, if needed and cost effective; and whether the Commission should impose any conditions on these Programs. *See Ameren Missouri, et al.*, List of Issues, List and Order of Witnesses, Order of Opening Statements and Order of Cross-Examination, ¶¶ 1-2. [Dkt. 83.]

MPCA is filing this brief so the Commission may have additional perspective in its consideration. Fundamentally, MPCA believes the Charge Ahead Program is not “needed,” and the proposed cost recovery mechanisms are not “appropriate,” because neither can be applied fairly and reasonably to Ameren Missouri’s ratepayers.

At its core, Ameren Missouri’s request for approval of the Charge Ahead Program invites the Commission to prematurely and inappropriately make broad policy decisions for the State of

Missouri despite the fact that these issues—which lie within the province of the legislative branch—remain pending and undecided by the Missouri Legislature.

The State of Missouri has elected to not join the 2013 State Zero-Emission Vehicle ("ZEV") Programs Memorandum of Understanding ("MOU"), Direct Testimony of Patrick E. Justis, 13 [Dkt. 8], and yet Ameren Missouri relies on this MOU as justification for its proposal. *Id.* at 14. This is despite ongoing evaluation by the Missouri Legislature into these same public policy considerations.¹

Ameren Missouri's stated purpose of this program is to "stimulate the development of infrastructure within the Company's service territory that is needed to support widespread adoption of electric vehicles by the public," Union Electric Company, Tariff Revision, Charge Ahead – Electric Vehicles Program, 1 [Dkt. 4], and proposes providing incentives to generate this stimulus, subsidized by Ameren Missouri's ratepayers.

MPCA strongly supports the equal treatment, including taxation and regulation, of any and all motor vehicles and motor fuels, including alternative motor fuels like electricity.² Particularly alarming to MPCA is that public utility Ameren Missouri's Application seeks to force private sector MPCA members and other private sector motor fuel businesses within the Ameren Missouri service area to finance their direct competition who wish to enter the private sector motor fuel market.

In effect, public utility Ameren Missouri seeks to force its ratepayers engaged in the private sector supply of motor fuel, many of which are small, second or third generation family-

¹ See, for example, H.B. 287, 100th Leg., 1st Sess. (Mo. 2019), which has been prefiled for consideration by the 100th General Assembly. Likewise, the Missouri Legislature recently passed S.S. 2 H.B. 1460, 99th Leg., 2nd Sess. (Mo. 2018), concerning equal taxation of motor fuels and alternative fuels. Although this legislation was ultimately rejected by voters in Missouri's November 2018 state general election, this demonstrates public policy concerning electric vehicles is still in flux. MPCA requests the Commission take official notice of the pendency of H.B. 287 and the legislative and electoral history of H.B. 1460 pursuant to § 536.070(6), RSMo.

² Electric vehicles, as well as other alternative fuel vehicles, are currently subject to the alternative fuel decal in lieu of a tax. See § 142.869, RSMo.

owned businesses, to finance and support supply-side infrastructure that will be used in direct competition of these ratepayers. Such treatment is fundamentally unfair to this segment of Ameren Missouri's ratepayers, and MPCA believes the public policy of the State should not legitimize an unfair competitive private sector advantage vis-à-vis disparate groups within the Ameren Missouri service area.

A competitive private sector and free marketplace is a fundamental principle of our American values, and MPCA believes any obligation forcing its private sector members to finance their direct private sector competition is grossly unfair, unjust, and antithetical to these values.

Placing this cost on Ameren Missouri's ratepayers is particularly egregious given Ameren Missouri's own testimony that much of the infrastructure Ameren Missouri is seeking to finance will be "infrequently utilized" by EV drivers:

[L]ocal networks of fast chargers such as those in St. Louis and Kansas City serve to help prospective customers feel less range anxiety when making the decision to purchase an EV but are infrequently utilized once the EV purchase has been made. As EVs grow in battery capacity and associated range, drivers will have less range anxiety and public around town charging may become a less important part of the charging ecosystem.

Union Election Company, Direct Testimony of Patrick E. Justis, 26. [Dkt. 8.]³ Accordingly, the proposed tariff is unfair, unjustified and unwise, and the Commission should deny Ameren Missouri's Application.

Similar concerns exist for the Charge Ahead – BS Program, wherein Ameren Missouri is seeking to "promote[] the use of more efficient electrically-powered equipment over gasoline, propane, or diesel-fueled equipment for transportation and other commercial and industrial

³ Commission Staff and the Missouri Office of Public Counsel discuss concerns the EV chargers installed under Ameren Missouri's proposal may become "stranded assets" at the cost of ratepayers, concerns MPCA shares. *See* Office of Public Counsel, Rebuttal Testimony of Geoff Marke, 15-16, 18 [Dkt. 65], *and* Missouri Public Service Commission, Commission Staff Division, Surrebuttal Testimony of Byron M. Murray, 3-4. [Dkt. 73.]

applications.” Union Electric Company, Tariff Revision, Charge Ahead – Business Solutions, 1. [Dkt. 3.]

MPCA agrees with the Office of Public Counsel “[t]hat ratepayers should not be subsidizing a load building technology that already has a commanding market share and user adoption,” as is the case with electric-power forklifts, or where current Missouri Department of Natural Resources (“MDNR”) regulations will accomplish the same goal, as is the case with electric standby truck refrigeration and truck stop electrification programs. *See* Office of Public Counsel, Rebuttal Testimony of Geoff Marke, 10-11. [Dkt. 65.] Likewise, Ameren Missouri’s Airport Ground Support Equipment proposal, which would provide a direct benefit to a single customer at the expense of all other ratepayers, is inappropriate and unwarranted.

In conclusion, public utility Ameren Missouri is requesting the Commission to set public policy concerning electric vehicles in the State of Missouri that is both at odds with the direction the state has taken to date, given the State’s refusal to participate in the MOU, and premature, given significant policy decisions continue to be raised at the legislative level. What’s more, Ameren Missouri’s proposal seeks to gamble on potential future consumer behavior, financed by, and the risk borne,⁴ by its ratepayers.

Additionally, public utility Ameren Missouri is seeking the Commission’s approval to provide subsidies financed by ratepayers for equipment already in common use, to supplant the

⁴ Although Ameren Missouri is a public utility, it is an investor-owned public utility. Under Ameren Missouri’s proposal, all of the immediate and long-term benefits of the Program would accrue to Ameren Missouri and its shareholders, while all of the risk would be borne by its ratepayers. If the Charge Ahead – EV-related infrastructure sought by Ameren Missouri does not spur growth in the electric vehicle market, the cost of the investment would be borne by Ameren Missouri’s ratepayers. That said, MPCA also disagrees with the Office of Public Counsel’s risk sharing proposal to delay recoupment of these costs from ratepayers until a threshold of electric vehicles are sold within the State. *See* Office of Public Counsel, Rebuttal Testimony of Geoff Marke, 20-22. [Dkt. 65.] Either way, the tariff necessarily applies in an inequitable and unjust manner on disparate populations within Ameren Missouri’s service area, as discussed herein. *See, also, id.* at 18, and equitable concerns raised by OPC in ET-2016-0246. *Id.*, GM-3, 27-29.

requirements of current MDNR regulations that already promote similar interests, and to provide specialized equipment to a single ratepayer at the cost and expense of all ratepayers.

Finally, and most appalling, this proposal being pursued by public utility Ameren Missouri would unfairly force private sector MPCA members to finance the initial and ongoing costs of their direct private sector motor fuel competitors.

For these reasons and more, Ameren Missouri has not provided sufficient evidence to show the Charge Ahead – EV and BS Programs are needed, or provided sufficient evidence to show what cost recovery mechanisms would be appropriate, because Ameren Missouri has not shown these programs can be applied fairly and reasonably to its ratepayers. MPCA respectfully encourages the Commission to deny Ameren Missouri’s Application for the Charge Ahead Program.

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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing Brief of *Amicus Curiae* Missouri Petroleum Marketers and Convenience Store Association was served on all parties participating in the Electronic Filing Information System on this 7th day of January, 2019.

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