

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

In the Matter of Ameren Missouri's	)	
Application for Authorization to	)	File No. ET-2014-0085
Suspend Payment of Solar Rebates.	)	Tariff No.

**APPLICATION FOR AUTHORITY TO  
SUSPEND PAYMENT OF SOLAR REBATES,  
REQUEST FOR VARIANCE AND MOTION  
FOR EXPEDITED TREATMENT**

Pursuant to Sections 393.1030 and 393.1045 RSMo. and to 4 CSR 240-2.060, Union Electric Company, d/b/a Ameren Missouri (“Ameren Missouri,” "Company" or "Applicant") hereby respectfully submits to the Missouri Public Service Commission (“Commission”) its Application for Authority to Suspend Payment of Solar Rebates, Request for Variance and Motion for Expedited Treatment (“Application”). In support of its Application, Ameren Missouri states as follows:

**I. APPLICANT**

1. Union Electric Company is a Missouri corporation doing business under the fictitious name of Ameren Missouri in good standing in all respects, with its principal office and place of business located at One Ameren Plaza, 1901 Chouteau Ave., St. Louis, Missouri 63103. Applicant is engaged in providing electric and gas utility services in portions of Missouri as a public utility under the jurisdiction of the Commission. There is already on file with the Commission a certified copy of Applicant’s Articles of Incorporation (See Case No. EA-87-105), Applicant’s Fictitious Name Registrations as filed with the Missouri Secretary of State’s Office (See Case Nos. GO-98-487 and EN-2011-0069). Said documents are incorporated herein by reference and made a part hereof for all purposes. Attached to this Application is a Certificate of Corporate Good Standing from the Missouri Secretary of State.

2. Pleadings, notices, orders and other correspondence and communications

concerning this Application should be addressed to:

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3. Applicant has no pending actions or final unsatisfied judgments or decisions against it from any state or federal agency or court which involve customer service or rates, which action, judgment, or decision has occurred within three years of the date of this Application, other than cases currently pending before the Commission, and an appeal of one aspect of the Commission's Report and Order in the Company's most recent electric rate case (Commission Case No. ER-2012-0166; Court of Appeals for the Western District of Missouri, Case No. WD75980). The Applicant has no annual reports or assessment fees that are overdue.

## **II. HISTORY**

4. On November 4, 2008, Proposition C was adopted by the voters of Missouri and later codified as Section 393.1030 RSMo. (Cum.Supp. 2009) which mandated, *inter alia*, that the "commission shall, in consultation with the department, prescribe by rule a portfolio requirement for all electric utilities to generate or purchase electricity generated from renewable energy resources. . ." Section 393.1030.1. RSMo. (Cum. Supp. 2009).

Proposition C also stated that “Such rules shall include: (1) A maximum average retail rate increase of one percent determined by estimating and comparing the electric utility’s cost of compliance with least-cost renewable generation and the cost of continuing to generate or purchase electricity from entirely nonrenewable sources, taking into proper account future environmental regulatory risk including the risk of greenhouse gas regulation. . .” Section 393.1030.2(1).

5. In compliance with Section 393.1030, the Commission adopted 4 CSR 240-20.100 Electric Utility Renewable Energy Standard Requirements (effective September 30, 2010) which states, *inter alia*, that: “The retail rate impact. . . may not exceed one percent (1%) for prudent costs of renewable energy resources directly attributable to RES compliance.” 4 CSR 240-20.100(5). In addition, Subsection D of 4 CSR 240-20.100(5) states as follows: "For purposes of the determination in accordance with subsection (B) of this section, if the revenue requirement including the RES-compliant resource mix, averaged over the succeeding ten (10)-year period, exceeds the revenue requirement that includes the non-renewable resource mix by more than one percent (1%), the utility shall adjust downward the proportion of renewable resources so that the average annual revenue requirement differential does not exceed one percent (1%)..." (emphasis added).

6. On May 28, 2013, Ameren Missouri filed its 2013 Annual Renewable Energy Standard Compliance Plan ("2013 RES Plan") in File No. EO-2013-0503, pursuant to 4 CSR 240-20.100. The Company's analysis showed that the Company did not expect to exceed the 1% maximum Retail Rate Increase (RRI) for the years 2013, 2014 or 2015.

7. On July 12, 2013, Staff filed comments on Ameren Missouri's 2013 RES Plan and claimed the Company's calculation methodology did not comply with the Commission's rules.

8. On July 3, 2013, Governor Jeremiah (Jay) Nixon signed into law HB 142 which became effective on August 28, 2013 and amends Section 393.1030. HB 142 states in part (codified in Section 393.1030(3)):

If the electric utility determines the maximum average retail rate increase provided for in subdivision (1) of subsection 2 of this section will be reached in any calendar year, the electric utility shall be entitled to cease paying rebates to the extent necessary to avoid exceeding the maximum average retail rate increase if the electrical corporation files with the commission to suspend its rebate tariff for the remainder of that calendar year at least sixty days prior to the change taking effect. The filing with the commission to suspend the electrical corporation's rebate tariff shall include the calculation reflecting that the maximum average retail rate increase will be reached and supporting documentation reflecting that the maximum average retail rate increase will be reached. The commission shall rule on the suspension filing within sixty days of the date it is filed.

9. On September 30, 2013, Ameren Missouri filed a Notice and Request for Expedited Treatment, which opened this case. The goal of that filing was to enter into confidential settlement discussions. Unfortunately, no settlement has been reached.

### **III. AMEREN MISSOURI'S REQUEST TO SUSPEND PAYMENT OF SOLAR REBATE**

10. The purpose of this application is to request that the Commission authorize Ameren Missouri to suspend solar rebate payments in order to meet the statutory and rule requirements to adjust downward the proportion of renewable resources so that the average annual revenue requirement differential does not exceed one percent. Authority to suspend solar rebate payments, subject to Ameren Missouri actually paying out the level of rebates it currently anticipates paying, is requested to begin no later than November 22, 2013. Pursuant to HB 142, the Commission should make its decision in this matter effective within sixty (60) days of the filing of this Application. Ameren Missouri has also filed a revised solar rebate tariff sheet to allow it to cease paying solar rebates consistent with this Application.

11. When Ameren Missouri made its RES Plan filing in May of this year, it believed it's 2013 compliance costs would be substantially less than the 1% maximum set by the RES statute. What the Company did not anticipate is the pace at which solar rebates would increase as compared to previous years. Since that filing was made, the Company has seen a substantial increase in applications and believes that trend will continue. To put it in context, during the calendar year 2012, Ameren Missouri paid just over \$9 million in solar rebates. For the first nine months of 2013, Ameren Missouri paid over \$13.5 million in solar rebates and has another \$28 million of applications in various stages in the rebate process. Solar installation activity has in particular accelerated, which led Ameren Missouri to the conclusion that the Company is likely to reach the 1% maximum in approximately 60 days.

12. A complicating factor in this situation is the lack of clarity regarding how the RRI is to be calculated. Currently, in various Commission proceedings, at least two methods have been offered for use in calculating the 1% maximum. One can be found in the Company's RES plan filing. The second is Staff's alternative methodology, which can be found in its comments in that case. The Commission has not, to date, determined whether either methodology is consistent with its regulations which govern how to determine the 1% maximum. This determination is critical to Ameren Missouri's ability to make prudent decisions regarding when solar rebates need to be suspended in order to stay within the RRI limitation. For purposes of this filing, Ameren Missouri has recalculated the RRI limitation after considering the issues raised by Staff in its July 12<sup>th</sup> report.

13. Obviously, it is impossible for Ameren Missouri to know on exactly what date it will pay the last dollar that reaches the 1% limitation and the Company does not desire to cease paying rebates prematurely. Accordingly, the Company is asking the Commission to confirm

Ameren Missouri's calculation of the 1% maximum and the corresponding amount allocated for rebates under that calculation. The Company also requests the Commission approve a tariff change that allows the Company to cease paying rebates when it pays out that amount, subject to the requirement that Ameren Missouri cannot cease paying rebates earlier than 60 days from the date of this filing.

14. Supporting testimony from the following witnesses, including the documentation reflecting that the Company expects that the maximum average retail rate increase will be reached in approximately 60 days, is filed concurrently with this application and is incorporated herein by reference:

Matt Michels - RES Retail Rate Impact Calculation and RES Compliance Costs - except Solar Rebate Costs

Richard Wright - RES Compliance Costs - Solar Rebate Costs only

#### **IV. REQUEST FOR VARIANCE**

15. Ameren Missouri request a variance to include REC costs from its Pioneer Prairie wind farm purchase power agreement (PPA) in the RRI calculation. Clearly, these REC costs fit the definition of "RES compliance cost," as that term is defined in the rules. The definition reads "RES compliance costs means prudently incurred costs, both capital and expense, directly related to compliance with the Renewable Energy Standard."<sup>1</sup> These RECs are used to comply with the RES portfolio requirement and there is a cost associated with those RECs. Accordingly, the costs are directly related to compliance. The rules, however, contain a restriction on what RES compliance costs can be included in the RRI calculation. The restriction requires that the renewable resource must not have been constructed or under contract prior to the effective date of the rules. Ameren Missouri feels it is logical to exclude the costs of renewable resources that

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<sup>1</sup> 4 CSR 240-20.100(1)(N).

pre-date the statute, since there was no renewable energy requirement prior to that time. However, it is not logical to exclude renewable energy resources entered into once the utility knew it must meet RES requirements just because there was a gap between the effective date of the statute and the time when rules could be developed and placed into effect.

16. Ameren Missouri entered into the Pioneer Prairie PPA after the statute was in effect, with the knowledge that the RECs from the PPA would be used to comply with the RES statute. As Mr. William Barbieri, Director Renewable Strategy Policy and Generation for Ameren Missouri, testified at the RES rulemaking hearing in response to a Commissioner question, Ameren Missouri intended the RECs obtained through the Pioneer Prairie PPA to be used for the purpose of RES portfolio compliance.<sup>2</sup> Moreover, at the time Ameren Missouri entered into the PPA, June of 2009, it had no reason to expect that the rules would impose this additional restriction. The workshop process began in May of 2009 and the first time this restriction appeared was in Version 16 of the rules, which was proposed in File No. EW-2009-0324, on December 23, 2009.

17. No other Missouri investor owned electric utility added any renewable resource between the effective date of the statute and the effective date of the Commission's rules. Had the RES not become law, Ameren Missouri would have had the option of not entering into the PPA. But the RES did become law and Ameren Missouri did enter into this PPA after the law was effective. These unique facts, justify the granting of a variance so that these costs, which are clearly RES compliance costs, can be accounted for in the RRI calculation.

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<sup>2</sup> File No. EX-2010-0169, Tr. p. 111, l. 9-18.

## V. PROCEDURAL ISSUES

18. Ameren Missouri proposes the following procedural schedule.

Ameren Missouri Direct Testimony	October 11, 2013
Rebuttal Testimony (non-Ameren Missouri parties)	October 25, 2013
Surrebuttal and Cross-Surrebuttal Testimony	November 1, 2013
Settlement Conference	November 4, 2013
List of Issues, List of Witnesses, Order of Cross-Examination and Order of Opening Statements	November 4, 2013
Position Statements	November 5, 2013
Hearing	November 8, 2013
Briefs	November 18, 2013
(60 Days from Filing	December 10, 2013)

In order to adhere to this schedule, the parties will need expedited transcripts from the hearing.

19. Ameren Missouri also proposes to shorten the time to respond to data requests as follows. Until October 25, 2013, parties would have seven calendar days to answer and five calendar days to object or advise of a need for additional time to respond. On and after October 25, parties would have five calendar days to answer and three calendar days to object or advise of a need for additional time to respond.

20. Ameren Missouri will place all responses to data requests received on its Caseworks Extranet site so that all parties will have access to all responses. Ameren Missouri will continue to use EFIS to answer data requests from the Missouri Public Service Commission Staff, although those answers will be available on the Caseworks Extranet site as well.

21. Ameren Missouri asks the Commission to order that all parties serve workpapers on the same day as testimony is filed. Consistent with this request, concurrent with this filing, Ameren Missouri is providing workpapers, prepared in the course of developing its witnesses' direct testimony, to all parties in this case.



22. Ameren Missouri requests the Commission grant it expedited treatment in setting the procedural schedule by October 18, 2013. This request is necessary so that the parties have time to prepare rebuttal testimony in accordance with the proposed schedule. This request was filed as soon as possible after Ameren Missouri made the determination that such a filing is necessary.

**WHEREFORE**, because Ameren Missouri's RES expenditures are approaching the Retail Rate Increase limitation set forth in the Renewable Energy Standard statute, Ameren Missouri respectfully request that the Commission authorize it to suspend solar rebate payments by confirming Ameren Missouri's calculation of the 1% maximum, confirm the amount allocated for rebates and approve a tariff change that allows the Company to cease paying rebates when it pays out that amount. The Company requests this order to be effective no later than December 10, 2013, in order to comply with Section 393.1030.2(1) RSMo. (Cum.Supp. 2009) and 4 CSR 240-20.100(5). The Company also requests the Commission grant it expedited treatment in adopting the procedural schedule as set forth above no later than October 18, 2013.

Respectfully Submitted,

*/s/ Wendy K. Tatro*

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

**CERTIFICATE OF SERVICE**

The undersigned certifies that true and correct copies of the foregoing have been e-mailed or mailed, via first-class United States Mail, postage pre-paid, to the service list of record this 11<sup>th</sup> day of October, 2013.

*/s/ Wendy K. Tatro*

Wendy K. Tatro

# STATE OF MISSOURI



Jason Kander  
Secretary of State

**CORPORATION DIVISION  
CERTIFICATE OF GOOD STANDING**

I, JASON KANDER, Secretary of the State of Missouri, do hereby certify that the records in my office and in my care and custody reveal that

**UNION ELECTRIC COMPANY  
00040441**

was created under the laws of this State on the 21st day of November, 1922, and is in good standing, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I have set my hand and imprinted the GREAT SEAL of the State of Missouri, on this, the 11th day of October, 2013

A handwritten signature in cursive script that reads "Jason Kander".

Secretary of State

