

**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)	
Permission and Approval and a Certificate of)	<u>Case No. EA-2016-0207</u>
Public Convenience and Necessity Authorizing)	Tracking No. YE-2018-0110
it to Offer a Pilot Subscriber Solar Program and)	
File Associated Tariff)	

STAFF’S RECOMMENDATION TO REJECT APPLICATION

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”), by and through the undersigned counsel, and for its recommendation regarding Union Electric Company d/b/a Ameren Missouri’s (“Ameren Missouri”) application for convenience and necessity (“Application”) recommends that the Application rejected, because the Application does not comply with the Non-Unanimous Stipulation and Agreement (“Stipulation”), filed September 23, 2016 and approved by the Commission on October 5, 2016. In support of this recommendation, Staff states:

1. On April 27, 2016, Ameren Missouri filed three tariff sheets with a proposed effective date of May 27, 2016. Ameren Missouri voluntarily extended the effective dates of these tariff sheets while settlement negotiations were ongoing.
2. On September 23, 2016, Ameren Missouri, the Missouri Division of Energy, Renew Missouri, Earth Island Institute, and Staff filed a Stipulation, which the Commission approved on October 5, 2016.
3. On March 7, 2018, Ameren Missouri filed an expedited Application for a Certificate of Convenience and Necessity, and tariff revisions (YE-2018-0110).
4. On March 8, 2018, the Commission ordered Staff to file a recommendation on the tariff no later than March 23, 2018, and a recommendation on

the application no later than April 23, 2018. Staff filed its recommendation to reject the tariff on March 23, 2018.

5. Attached is Staff's recommendation on the Application, which, in summary, recommends rejection as the Application does not comply with the Stipulation. The largest difference between the Stipulation and the Application is that the Stipulation was for two separate 500 kW facilities, whereas the Application is for a single 942 kW-AC facility. If the Stipulation can be renegotiated to reflect the single 942 kw AC facility, Staff additionally recommends the Commission grant Ameren Missouri a CCN with conditions to file documentation (further outlined in the recommendation) to comply the requirements of 4 CSR 240-3.105.

6. Staff has discussed the issues outlined in its recommendation with Ameren Missouri, and anticipates working with Ameren Missouri and the signatories to the Stipulation to resolve the issues.

WHEREFORE, Staff prays the Commission will reject the Application, and grant such other and further relief as is just in the circumstances.

Respectfully submitted,

/s/ Nicole Mers

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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 23rd day of April 2018, to all counsel of record.

/s/ Nicole Mers

MEMORANDUM

TO: Missouri Public Service Commission
Official Case File, Case No. EA-2016-0207

FROM: Claire M. Eubanks, PE, Utility Regulatory Engineer II
Commission Staff Division

/s/ Daniel I. Beck 4/23/2018 /s/ Nicole Mers 4/23/2018
Case Coordinator / Date Staff Counsel's Office / Date

SUBJECT: Staff Recommendation for the **Rejection** of the Ameren Missouri's Expedited Application for Certificate of Convenience and Necessity.

DATE: April 23, 2018

On March 7, 2018, Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri") filed an expedited application for certificate of convenience and necessity ("Application"). Included with the Application were five (5) tariff sheets with a proposed effective date of April 6, 2018, intending to implement a Community [Subscriber] Solar Pilot Program ("Program").¹ On March 8, 2018, the Missouri Public Service Commission ("Commission") issued an *Order Setting Date for Filing Responses* requiring the Commission Staff ("Staff") to respond to the Ameren Missouri's tariff no later than March 23, 2018 and the application no later than April 23, 2018. On March 23, 2018, Staff filed its memorandum recommending rejection of the proposed tariff sheets because the tariff sheets were inconsistent with the Non-Unanimous Stipulation and Agreement ("Stipulation"). On April 5, 2018, the Commission ordered suspension of the proposed tariff sheets until August 4, 2018.

Staff finds the Application is inconsistent with the Stipulation filed in this case on September 23, 2016 and approved by the Commission on October 5, 2016, and therefore recommends **rejection** Application. Although the Application implies construction of the facility will occur in two phases of 500 kW, phased construction is not contemplated in the 90% design drawings and would be impractical. The drawings indicate the system is designed to consist of three sub-arrays with a total size is 942 kW-AC.² No combination³ of the three sub-arrays equates to less than 500 kW.

Staff reviewed the Application with consideration of the minimum application conditions agreed to in the Stipulation and the requirements of 4 CSR 240-3.105. Staff is open to modifying the Stipulation. After modification of the Stipulation, Staff recommends the Commission grant a CCN for the Community Solar Pilot Program with the following conditions:

¹ As discussed in Staff's March 23, 2018 Memo, the proposed Program was originally entitled "Subscriber Solar Pilot Program". In this Application, Ameren Missouri renamed that program the "Community Solar Pilot Program".

² Ameren Lambert Community Solar Energy Center, Sheet XX-DWG-BLDG-000002.

³ Unless each sub-array was constructed separately, which is not suggested in the Application.

- Ameren Missouri shall file in EA-2016-0207 the legal description of the property to be leased.
- Ameren Missouri shall file in EA-2016-0207 the complete plans and specifications (i.e. 100% design drawings and accompanying specifications) for the Ameren Lambert Community Solar Energy Center.
- Ameren Missouri shall file in EA-2016-0207 certified copies of all approvals required of other governmental agencies (i.e. the permits identified as being required in Exhibit 3 of the Application).

The Stipulation included additional items for consideration of the site such as the quality of the site (quality of soil, etc.) and environmental considerations. Ameren Missouri provided, in response to Staff Data Request No. 0061, a geotechnical investigation report⁴ of the project site, which recommended long-term stability analyses⁵ of the existing slopes. Ameren Missouri elected not to have the recommended analyses completed. Staff has issued a data request to clarify Ameren Missouri's justification of this decision but does not expect a response prior to the filing of this memorandum. Staff's concern regarding the stability of the site may be resolved through the pending data request or as a condition to the granting of a CCN, such as:

- Ameren Missouri shall have its consulting engineer perform analyses of the long-term stability of the existing slopes, including seismic analyses.

Discussion

On September 23, 2016, Ameren Missouri, the Missouri Division of Energy, Renew Missouri, Earth Island Institute, and Staff filed a Stipulation, which the Commission approved on October 5, 2016. Among its provisions, the Stipulation included Minimum Application Conditions and Additional Considerations for Site Evaluation (Appendix A of the Stipulation). In addition to filing information required by 4 CSR 240-3.105, Ameren Missouri was to include an assessment that the identified site met the Minimum Application Conditions and provide documentation related to the additional considerations. A discussion of the minimum application conditions was included within the Application. Staff reviewed the Application, 90% design drawings submitted with the Application, and the response to Staff Data Request Nos. 0059 through 0062.

Paragraph 18 of the Application implies that Ameren Missouri will construct the solar facility in two phases. The first phase to be 500 kW at just over \$1 million and, once enough subscriptions are received, the second 500 kW phase will be constructed for a total cost of \$1.9 million. This description is inconsistent with the 90% design drawings submitted with the Application. The 90% design drawings indicate the project is 942 kW-AC in total, consisting of three sub-arrays, which range from 230 to 372 kW-DC. Not only would it be impractical to build only

⁴ *Geotechnical Investigation for Lambert Community Solar Project on Missouri Bottom Road, Bridgeton, Missouri.* Prepared by Reitz and Jens Consulting Engineers, Inc. June 28, 2017.

⁵ Including seismic analysis.

a portion of the facility, the design drawings do not contemplate phased construction and no combination of the three sub-arrays equates to less than 500 kW.⁶ The Stipulation included a capital investment cap for each separate facility of \$1.75 million and no more than \$3 million, in total, for all Pilot facilities. The proposed project is one single facility, consisting of three sub-arrays, with a capital investment level of approximately \$1.9 million, although this does not include interconnection costs.⁷

The minimum application conditions as outlined in Appendix A of the Stipulation are discussed below:

- Site is within the Ameren Missouri service territory:
 - The site is located on property near St. Louis International airport in Ameren Missouri's service territory.
- Site provides a suitable location for solar (flat, minimal shading issues, accessible) minimum of eighty-five percent (85%) of the solar resource is available to the solar photovoltaic system. Near sub-transmission, distribution lines, or substations (12kV - 69 kV):
 - Based on the 90% design drawings, the site appears to be bounded by a railroad right-of-way to the north and Missouri Bottom Road to the south. The site has a flat portion where the solar arrays are proposed to be located. There is also a steep existing slope along Missouri Bottom Road. Solar panels are not proposed to be installed on the slope. Wooded vegetation occurs along the northern boundary of the site and, as the Application notes, there are no obstructions to the south. The 90% design drawings further indicate there is a possible medium voltage interconnection point near the northwest corner of the site.
- Interconnection must be at sub-transmission or distribution level:
 - Ameren Missouri indicated in its application that there is a 12 kV distribution circuit identified within 1,000 feet of the proposed point of common coupling.
- Interconnection must not require significant capacity upgrades:
 - Ameren Missouri provided a cost-estimate for the project in response to Staff Data Request No. 0060, but did not provide an interconnection study. Further, Ameren Missouri indicated the estimates are being updated and are expected to be completed **no later than July 1, 2018**.
- Not in a flood plain:
 - Ameren Missouri provided a review of available environmental records from Environmental Data Resources, Inc. ("EDR") which included a map indicating the site is not within the 100-year or 500-year flood plain.

⁶ Unless each sub-array was constructed separately, which is not suggested in the Application.

⁷ Ameren Lambert Community Solar Energy Center, Sheet XX-DWG-BLDG-000002, indicates the interconnection point is to be designed, furnished, and installed by others. Cost estimate is pending refinement per response to Staff Data Request No. 0060.

The Stipulation also included additional considerations for Site Evaluation, which are discussed below:

- Price of Bid
 - Ameren Missouri received two bids in response to its Request for Proposal and selected the lowest capital cost bid.
- Price of Interconnection Cost and Upgrades
 - Ameren Missouri considered the interconnection costs (transformer installation and cabling to the nearest 12 kV), however, Staff will note that the estimate is being updated based on the 90% design drawings and are expected to be completed no later than July 1, 2018.
- Type of installation (Ground Mount, Rooftop, Canopy)
 - The 90% design drawings submitted with the Application indicate that installation will be a ground mount system.
- Quality of site (risk of erosion, deterioration of structure, or quality of soil)
 - Ameren Missouri provided a geotechnical investigation report,⁸ which recommended long-term stability analyses, including that a seismic analysis be performed on the existing slope. Ameren Missouri elected not to have a long-term stability analysis of the existing slope performed. In response to Staff Data Request No. 0061.1, Ameren Missouri stated that it based that decision on the characteristics of the site and project such as there being no signs of erosion and that the new solar equipment would not impose heavy loads on the existing slope. However, Ameren Missouri also indicated that the decision was based on a finding that “[t]he existing soil does not consist of fill material.” This statement is inconsistent with the letter from Environmental Operations, Inc., dated June 2, 2017,⁹ regarding its Environmental due diligence review of the proposed site, which indicates that fill is present across the site.
 - The geotechnical investigation report noted that soil testing¹⁰ had been completed and the consulting engineer would need accurate site topography to complete further analyses. It appears from the 90% design drawings that a survey of the existing site has already been completed.
- Environmental risk of site
 - Ameren Missouri provided the EOI Letter as a part of its Environmental due diligence review of the proposed site. The letter states in part:

No Phase I Environmental Site Assessment (as defined by ASTM Practice E 1527-13) has been completed to identify recognized environmental conditions. Accordingly, the scope of services was

⁸ Response to Staff Data Request No. 0061. *Geotechnical Investigation for Lambert Community Solar Project on Missouri Bottom Road, Bridgeton, Missouri*. Prepared by Reitz and Jens Consulting Engineers, Inc. June 28, 2017.

⁹ Response to Staff Data Request No. 0061.

¹⁰ The geotechnical investigation included testing the effective shear strength properties of the soil.

not intended to be a Phase II Environmental Assessment, but aid in due diligence.

Ameren Missouri indicates in response to Staff Data Request No. 0061.1 that “[t]he due diligence completed by Ameren Missouri exceeds the ASTM Phase I standard because of the invasive soil borings and sample analyses are not required for a Phase I investigation.” Despite Ameren Missouri taking steps beyond a typical Phase I site assessment, Ameren Missouri’s due diligence activities should not be construed as being as complete as a Phase I site assessment. Typically, these assessments are completed by a third-party and would include interviews with the site owner. Additionally, a report would be developed.

- Although Staff is concerned that Ameren Missouri performed the due diligence rather than having a third-party perform a Phase I study per the ASTM standard, the EOI letter concludes: “Based on analytical results, no soil or groundwater sample result is above the respective DTL or background concentrations with the exception of SB-2, from a depth 1-3 feet bgs, with 84.3 ppm lead. This concentration is below the Tier I residential limit.”
- Staff will also note that a radiological evaluation was not included in the EOI scope of services; Ameren Missouri based this decision on its review of the EDR radius report and physical site inspections.¹¹
- Existing security at site location
 - Ameren Missouri noted in its Application that there is no existing security infrastructure at the site location. Security upgrades, such as fencing, are included as a part of the project.
- Safety risk at location
 - Ameren Missouri did not identify any inherent safety risks at the site.
- Type of Facility: (Greenfield, Office, Educational, Industrial, Manufacturing, Retail, Data center, Warehouse, Healthcare, Military, Recreational, Other)
 - Ameren Missouri reported in its Application that the site is a greenfield site, with no existing infrastructure other than a gravel convenience road. Staff will note the EOI Letter noted the site appeared to be undeveloped and use was primarily agricultural through the 1960s.
- Site Status: (Owned, Leased, Other)
 - The site is leased from St. Louis International Airport; Ameren Missouri filed the lease with its Application.

¹¹ Response to Staff Data Request No. 0061.1.

The requirements of 4 CSR 240-3.105

Ameren Missouri discusses the requirements of 4 CSR 240-3.105(B) on page 7 of its Application. At this time, a legal description¹² of the property to be leased was not included in the Application, yet Ameren Missouri represents that the project will not cross any regulated or non-regulated utilities, railroad tracks, or underground facilities. Exhibit 2 of the Application includes a general drawing of the lease area and Exhibit 3 of the Application indicates a survey will be completed as part of the Land Release permit.

Ameren Missouri provided 90% design drawings as Exhibit 4 of the Application. Complete design drawings and specifications¹³ are not expected to be complete until early to mid-May 2018.¹⁴

Ameren Missouri noted in Paragraph 18 of the Application that it intends to finance the Project using existing treasury funds. Staff will also note that per the Stipulation, Ameren Missouri will collect a \$25 participation fee from subscribing customers, which would be treated by Ameren Missouri as Contribution in Aid of Construction.

Ameren Missouri provided a list of required permits¹⁵ in Exhibit 3 of the Application and represented that the permits will be filed as they are obtained from the identified governmental entities. At this time, none of the permits identified in Exhibit 3 of the Application have been provided to Staff or filed in EA-2016-0207.

To satisfy 4 240-3.105 (E), Ameren Missouri discusses in its Application that a CCN is necessary for Ameren Missouri to launch the Community Solar program, which was the subject of the Stipulation.

Staff Recommendation

Due to the reasons stated above, Staff recommends **rejection** of the Application because it is inconsistent with the Stipulation filed in this case on September 23, 2016 and approved by the Commission on October 5, 2016. After modification of the Stipulation, Staff recommends the Commission grant a CCN for the Community Solar Pilot Program with the following conditions:

¹² 4 CSR 240-3.105(B)1. "A description of the route of construction and a list of all electric and telephone lines of regulated and nonregulated utilities, railroad tracks or any underground facility, as defined in section 319.015, RSMo, which the proposed construction will cross."

¹³ 4 CSR 240-3.105(B)2. "The plans and specifications for the complete construction project and estimated cost of the construction project or a statement of the reasons the information is currently unavailable and a date when it will be furnished;"

¹⁴ Response to Staff Data Request No. 0062.

¹⁵ 4 CSR 240-3.105(D).

- Ameren Missouri shall file in EA-2016-0207 the legal description of the property to be leased.
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Public Convenience and Necessity)
Authorizing it to Offer a Pilot Subscriber)
Solar Program and File Associated Tariff)

AFFIDAVIT OF CLAIRE M. EUBANKS, PE

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

COMES NOW CLAIRE M. EUBANKS, PE and on her oath declares that she is of sound mind and lawful age; that she contributed to the foregoing Staff Recommendation in Memorandum form; and that the same is true and correct according to her best knowledge and belief.

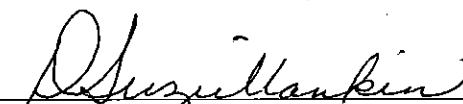
Further the Affiant sayeth not.


CLAIRE M. EUBANKS, PE

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 23rd day of April 2018.

D. SUZIE MANKIN
Notary Public - Notary Seal
State of Missouri
Commissioned for Cole County
My Commission Expires: December 12, 2020
Commission Number: 12412070


Notary Public