

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

In the Matter of the Application of	)	
Thomas L. Chaney for a Change of Electric	)	<b><u>File No. EO-2011-0391</u></b>
Supplier	)	

**STAFF’S RECOMMENDATION TO DENY APPLICATION**

COMES NOW the Staff of the Missouri Public Service Commission, by and through the undersigned counsel, and files this *Recommendation to Deny Application* with the Commission respectfully stating the following:

**Background**

1. On June 10, 2011, Thomas L. Chaney (Applicant) filed an *Application For Change Of Electric Service Provider (Application)* requesting the Commission to approve changing his electric supplier from Cuivre River Electric Cooperative, Inc. (Cuivre River) to Union Electric Company d/b/a Ameren Missouri (Ameren Missouri).

2. Cuivre River and Ameren Missouri filed their responsive pleadings on July 6, 2011, and July 12, 2011, respectively, opposing the *Application*.

**Analysis**

3. Sections 393.106 and 394.315 RSMo 2000, the “anti-flip-flop” statutes, authorize the Commission upon application by an affected party, to order a change of electrical suppliers if doing so is in the public interest for a reason other than a rate differential.

4. In the Staff’s *Memorandum*, attached hereto and marked as highly confidential, the Staff, based on its review, opines it is not in the public interest to grant the Application. The bases for the Staff’s opinion include the following: the location of the Company’s facilities in relation to the Applicant; that the Applicant would need to incur substantial costs for Ameren Missouri to extend its service lines to the Applicant, assuming acquisition of the necessary utility

easements; uncertainty of the solar rebates as explained below; both Cuivre River and Ameren Missouri are opposed to the *Application*; and other Cuivre River members will pay for Cuivre River's stranded costs of serving the Applicant's structures if Cuivre River ceases to serve them.

5. Additionally, the Staff is aware of two pending matters that may affect the outcome of this case. The first matter relates to the *Judgment* the Circuit Court of Cole County entered on June 29, 2011, in Case No. 10AC-CC00512. In that *Judgment*, which is not final and nonappealable until thirty days after the Court enters it, the Court stated in part: "Section 393.1030.3's solar rebate provision is declared illegal and unconstitutional. The Commission's Order adopting the subject Regulations is reversed and remanded to the Commission for further action consistent with this Judgment."

6. The second matter is File No. ET-2012-0016, in which Ameren Missouri filed tariff sheets to suspend its Rider SR-Solar Rebate on less than thirty days' notice—July 22, 2011. This same day, July 20, 2011, the Staff filed a response to Ameren Missouri's motion for an early effective date and a recommendation to reject the tariff sheets that would suspend Rider SR on the ground that until the Judgment becomes final and nonappealable, Section 393.1030.3, RSMo. Supp. 2010, remains the law.

#### Other Matters

7. Ameren Missouri is neither delinquent in the filing of its calendar year 2010 Annual Report, nor the payment of its fiscal year 2012 assessment.

**WHEREFORE**, the Staff files this *Recommendation to Deny Application* for the Commission's information and consideration, and respectfully recommends that the Commission deny the *Application For Change Of Electric Service Provider*.

Respectfully submitted,

**/s/Jennifer Hernandez**

Jennifer Hernandez

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### **CERTIFICATE OF SERVICE**

I hereby certify that true and accurate copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all parties of EFIS record this 20<sup>th</sup> day of July 2011.

**/s/Jennifer Hernandez**