

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

Patricia Schuba and Deane Todd,)	
Complainants,)	
)	File No. EC-2014-0342
v.)	
)	
Union Electric Company, d/b/a)	
Ameren Missouri,)	
Respondent.)	

**REPLY MEMORANDUM IN SUPPORT OF AMEREN MISSOURI'S
MOTION FOR SUMMARY DISPOSITION**

Complainants do not dispute any material fact asserted by Ameren Missouri in their response to Ameren Missouri's motion for summary disposition; accordingly, this Commission may resolve Ameren Missouri's motion by deciding the purely legal arguments advanced by the parties herein.

Ameren Missouri's motion for summary determination argued that the complaint lodged with the Commission by Ms. Schuba and Mr. Todd constituted improper collateral attacks under 386.550, RSMo., on the final orders approving the non-unanimous stipulation and the subsequent tariff filed in File No. ET-2014-0085; indeed, the allegations in the complaint are directed squarely at the Commission's orders entered in that case. *See, e.g., Complaint* at ¶¶ 9, 13, 16. In point of fact, the complaint filed by Ms. Schuba and Mr. Todd was filed very soon after the Commission first approved the stipulation and agreement and then approved the tariff in File No. ET-2014-0085. That the complaint is directed at the final Commission orders entered in File No. ET-2014-0085 is made obvious in that Complainants request that this Commission order "Ameren Missouri to approve solar rebate applications for Complainants and all other Ameren Missouri customers denied solar rebates for the reason that the stipulated amount from Case No. ET-2014-0085 had been reached." *Complaint* at Relief Requested, ¶ 4. To grant the requested

relief would directly countermand the orders entered by this Commission in that case; as such, the Complaint lodges an impermissible collateral attack against final Commission orders.

Apparently acknowledging that the bar against collateral attacks on Commission final orders found in § 386.550, RSMo. would preclude any attack against the Commission orders in File No. ET-2014-0085, Complainants insist that they are not attacking any orders entered in that case. In fact, Complainants assert in their response that they **“have not disputed Respondent’s ability to cease paying rebates after reaching the agreed upon ‘stipulated amount’ in the Stipulation.”** *Complainants’ Response* at ¶ 5. What Complainants argue prevents summary disposition in this case, however, is the *Commission’s* failure to make the necessary determination that Ameren Missouri will have reached the one percent cap such that it may stop paying solar rebates under Section 393.1030.3 in the ET-2014-0085 case and its failure to do so in File No. ET-2013-0350 (a filing made May 23, 2014—*after* the filing of their complaint).

If Complainants agree that Ameren Missouri is not obligated to continue paying rebates after reaching the stipulated amount and Ameren Missouri indeed has reached or reaches that amount, then there is no basis for a complaint against Ameren Missouri, regardless of what determination the Commission has made or has failed to make. In its December 12, 2013 *Order Approving Tariff and Granting Variance* in File No. ET-2014-0085, the Commission approved a tariff that would implement a “reservation-style system” for payment of solar rebates up to the stipulated amount. This order allowing a “queue system” for the payment of solar rebates was revised on February 5, 2014. Neither of these orders was appealed, and they are now final. Under this queue system, rebate applications received after December 20, 2013, have no “Rebate Pool dollars reserved for their solar projects.” *Aff. of Matt Michels*, ¶ 5 (attached to *Ameren Missouri’s Motion for Summary Disposition*). However, the applications already approved may or may not

eventually be paid out, depending on whether prior applications are installed. *Id.* at ¶ 4.

Consequently, Complainants place in the queue is exactly that—a place in the queue—and whether their application is eventually accepted or not is something not yet known until the solar rebate payments reach an aggregate level of \$91.9 million, as provided by the stipulation and the orders approving that stipulation. Consequently, Ameren Missouri continues to process and pay applications for solar rebates in the Commission-approved, reservation-style system. Given that Complainants agree that Ameren Missouri is not required to pay out rebates above the \$91.9 million and given that it is not yet known whether or not Ms. Schuba or Mr. Todd’s place in the queue will be reached, this complaint action may be summarily disposed of by the Commission.

The order approving Ameren Missouri’s tariff (as well as the order approving the stipulation) which adopts the reservation-style system to process solar rebates is final, conclusive, and binding and, consequently, cannot be attacked in a collateral proceeding. Under that order Ameren Missouri is allowed—indeed, is *required*—to cease paying rebates once it exhausts the Rebate Pool using the reservation-style system approved by the Commission. There are no genuine issues of material fact and the complaint in this case is barred by Section 386.550; consequently, Ameren Missouri is entitled to summary disposition in its favor.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 29th day of December, 2014, served the foregoing document either by electronic means, or by U. S. Mail, postage prepaid addressed to all parties of record.

/s/ Michael R. Tripp
Michael R. Tripp