

**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 )  
a Variance from the Provisions of )  
Commission Rule 20 CSR 4240-14 to Meet ) File No. EE-2021-  
Unregulated Competition in a Subdivision in )  
St. Charles County, Missouri. )

**APPLICATION, REQUEST FOR WAIVERS,  
AND MOTION FOR EXPEDITED TREATMENT**

Comes now Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri" or "the Company") and, pursuant to and in accordance with 20 CSR 4240-2.060, 20 CSR 4240-14.010(2), and the Company's tariff entitled "Unregulated Competition Waivers and Other Variances," Pilots, Variances and Promotional Practices, Schedule No. 6, Sheet No. 161, and hereby submits this *Application, Request for Waivers, and Motion for Expedited Treatment* ("*Application*"), which asks the Missouri Public Service Commission ("Commission") to grant a variance from its Promotional Practices Rule 20 CSR 4240-14 and the Company's Tariff Sheet No. 161 for good cause. Ameren Missouri also requests a variance from the Notice requirement of 20 CSR 4240-4.017, which requires 60 days' notice of case filings. Finally, in accordance with 20 CSR 4240-2.080(14), Ameren Missouri requests expedited treatment of this *Application* and the simultaneously submitted tariff so that they can both be approved no later than October 22, 2020. In support of its *Application*, Ameren Missouri states as follows:

**INTRODUCTION**

1. Ameren Missouri has been in discussions with W&M Properties ("Developer"), who is building a 10-lot subdivision tentatively known as the Kersting Road Development in Josephville, Missouri off of Kersting Road. The developer has engaged in discussions with both Ameren Missouri and Cuivre River Electric Cooperative, Inc. ("CREC") for the provision of electric service

to the subdivision. CREC has proposed certain incentives in order to provide service to the subdivision, and the Developer has asked whether Ameren Missouri is able to match the incentives offered. Ameren Missouri and the cooperative both have facilities in the vicinity of the proposed subdivision and the territory is not subject to an existing service territory agreement; the Company's facilities are so close that no extension costs would be required to serve the development.

2. In order to effectively compete with CREC for the provision of electric service to the subdivision, Ameren Missouri is submitting this *Application* pursuant to 20 CSR 4240-2.060, which governs applications generally, as well as 20 CSR 4240-14.010(2), which allows the Commission to grant variances from utility tariffs and the utility promotional practices rules for good cause, and Tariff Sheet No. 161, which anticipates applications to enable competition with unregulated electric service providers. Because Tariff Sheet No. 161 does not provide for incentives requested by the customer, the Company is also requesting a variance from the tariff provisions in order to more effectively compete with CREC. Finally, in order to effectuate the requested variances in a timely manner, the Company requests a variance from 20 CSR 4240-4.017, which requires 60 days' notice of case filings, and expedited treatment of this *Application*, and the simultaneously filed tariff, pursuant to 20 CSR 4240-2.080(14). Accordingly, this *Application* is divided into the following sections:

- I. Waiver of 60-Day Notice Requirement
- II. General Application Requirements - 20 CSR 4240-2.060(1)
- III. Request for Waivers
- IV. Motion for Expedited Treatment

## **I. Waiver of 60-Day Notice Requirement**

3. Ameren Missouri requests a variance from the 60-day notice requirement of 20 CSR 4240-4.017, which states, in relevant part:

Any person that intends to file a case shall file a notice with the secretary of the commission a minimum of sixty (60) days prior to filing such case...

Pursuant to 20 CSR 4240-4.017(1)(D), waivers of the 60-day notice requirement may be granted for good cause shown. The rule further provides that good cause includes "a verified declaration from the filing party that it has had no communication with the office of the commission within the prior one hundred fifty (150) days regarding any substantive issue likely to be in the case..."<sup>1</sup>

As indicated in the Affidavit attached as Appendix 1 to this *Application*, Ameren Missouri has had no communications with the office of the Commission (as defined by 20 CSR 4240-4.015(10)) regarding any substantive issue likely to be in this case during the preceding 150 days. Accordingly, Ameren Missouri has established good cause for a waiver from the 60-day requirement of 20 CSR 4240-4.017(1). No other public utility will be unreasonably affected by granting the Company a waiver from this requirement.

## **II. General Application Requirements - 20 CSR 4240-2.060(1)**

### **Paragraph (A) - Applicant**

4. The Company is a Missouri corporation doing business under the fictitious name of Ameren Missouri, organized and existing under the laws of the State of Missouri, in good standing in all respects, with its principal office and place of business located at One Ameren Plaza, 1901 Chouteau Avenue, St. Louis, Missouri 63103. The Company is engaged in providing electric and

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<sup>1</sup> Pursuant to the Commission's *Order Waiving 60-Day Notice Requirement* issued on August 1, 2017, in File No. WM-2018-0023, the examples of good cause provided in the rule are not exclusive, and the Commission may find that good cause has been established by other circumstances.

gas utility services in portions of Missouri as a public utility under the jurisdiction of the Commission. The Company is a subsidiary of Ameren Corporation.

**Paragraph (B) – Articles of Incorporation; Paragraph (E) – Fictitious Name; Paragraph (G) – Information Previously Submitted; Paragraph (H) – Character of Business;**<sup>2</sup>

5. Ameren Missouri previously submitted to the Commission a certified copy of its Articles of Incorporation (See File No. EA-87-105), as well as its Fictitious Name Registrations as filed with the Missouri Secretary of State’s Office (See File No. EA-2019-0181). These documents are incorporated by reference and made a part of this *Application* for all purposes. The Company provides a copy of its Certificate of Corporate Good Standing as Appendix 2 to this *Application*.

**Paragraph I – Correspondence and Communication**

6. Correspondence and Communication -- Correspondence, communications, orders and decisions in regard to this *Application* should be directed to:

Thomas M. Byrne  
Senior Director Regulatory Affairs  
Ameren Missouri  
1901 Chouteau Avenue  
MC 1450  
St. Louis, MO 63103  
(314) 554-2514  
[TByrne@ameren.com](mailto:TByrne@ameren.com)

**Paragraph (K) – Actions, Judgments, and Decisions; Paragraph (L) – Fees**<sup>3</sup>

7. The Company has no final unsatisfied judgments or decisions against it from any state or federal agency or court that involve customer service or rates that have occurred within three years of the date of this *Application*. By the nature of its business, the Company has, from time-to-time, pending actions in state and federal agencies and courts involving customer service or rates. The Company has no annual report or assessment fees overdue to this Commission.

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<sup>2</sup> Paragraphs (C), (D), and (F) do not apply to Ameren Missouri.

<sup>3</sup> Paragraph (J) does not apply to Ameren Missouri.

### **Paragraph (M) – Affidavit**

8. An Affidavit in support of this *Application* by an authorized individual is included as Appendix 1.

### **III. Promotional Practices**

#### **Requirements of Regulations and Tariff**

9. 20 CSR 4240-14.010(2) allows a utility, upon written application, to request a variance from the Commission's Utility Promotional Practices Rules. Among other things, the utility must serve a copy of the application on each public utility providing the same or competing utility service in the service area. Because CREC is the direct competition for the Kersting Road development, Ameren Missouri is serving a copy of this *Application* as indicated on the Certificate of Service. This regulation also allows for a variance from the Commission's Utility Promotional Practices Rules "for good cause shown."

10. Generally, 20 CSR 4240-2.060(4) requires that applications for variances or waivers of, among other things, utility tariff provisions contain the specific provisions from which variances are requested, the reasons and a complete justification setting out the good cause for the variance or waiver, and the name of any public utility affected by the variance or waiver. 20 CSR 4240-14.010(2) also provides that a utility may be granted a variance from the Utility Promotional Practices Rules "for good cause shown." Similarly, Section E. Unregulated Competition Waivers and Other Variances, of the Company's Pilots, Variances, and Promotional Practices tariffs, Schedule 6, Tariff Sheet No. 161 ("Tariff Sheet No. 161") provides for the waiver of certain extension, construction, and non-tariff charges upon an order issued by the Commission:

Where the Company competes for business with unregulated competition, the Company may waive all or part of any charges associated with extensions of service and/or construction deposits, provided for in Company Schedule No. 6 – Schedule of Rates for Electricity, and any additional non-tariff charges, required in order to

effectively compete with offers made to developers and/or customers by unregulated competition after notifying the [Commission] and receiving an Order granting the waiver *for good cause shown*. [Emphasis added.]

11. 20 CSR 4240-14.020(1)(B) prohibits a utility from, in relevant part, "[t]he furnishing of consideration to any ... developer ... for work done or to be done on property not owned or otherwise possessed by the utility ..." 20 CSR 4240-14.020(1)(E) prohibits a utility from, in relevant part, "[t]he provision of free, or less than cost of value, wiring, piping, appliances or equipment..." Further, Sheet No. 161 limits competition waiver requests to the waiver of costs otherwise attributable to developers or customers in order to compete with unregulated competition such as electric cooperatives. Since the proximity of Ameren Missouri's existing facilities to the development means no extension costs would be incurred by the developer, the Company's ability to offer sufficient incentives under the existing tariffs is hindered. Ameren Missouri requests a variance from the Utility Promotional Practices Rules and Tariff Sheet No. 161 so that it may provide the Developer with certain incentives, including work and materials the Company would not typically provide, so that it may provide electric service to the new subdivision.

12. Given the provision above which allows Ameren Missouri the opportunity to compete with unregulated electric suppliers, the Company presents the discussion below demonstrating why it has good cause to obtain the requested waivers.

#### **Good Cause for the Waivers**

13. The Developer has platted a new subdivision in Josephville, Missouri, near Kersting Road. A proposed Subdivision Layout of is found in Appendix 3, which is incorporated herein by reference. The development will consist of 10 to 12 single-family residences sized at over 3,000 square feet. Ameren Missouri has estimated an extension allowance that would

otherwise arise from providing service to the Kersting Road development at approximately  
\*\* \_\_\_\_\_ \*\* or more.

14. In early August, the Developer approached Ameren Missouri, stating that he was exploring options for the provision of electric service in the Kersting Road development. On September 9, 2020, the Developer again approached Ameren Missouri and provided a site drawing and additional information about the development. See Confidential Appendix 4 for correspondence memorializing this exchange. The Developer also indicated that he had already been in discussions with CREC regarding proposed incentives designed to induce the Developer to choose the cooperative as the electric provider for the development, and described those incentives to the Company. On September 23, 2020, the Developer provided Ameren Missouri with the letter attached as Confidential Appendix 5, which contains more information regarding CREC's proposed incentives as well as the Developer's preference to retain Ameren Missouri as the electric service provider for the development if the financial considerations can be matched. Specifically, CREC offered the Developer \*\* \_\_\_\_\_

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\_\_\_\_\_. CREC is an electric cooperative organized pursuant to Chapter 394 RSMo. As an electric cooperative, CREC is not regulated by the Commission as to its rates, charges, or terms and conditions of service. More specifically, it is not regulated regarding the service it may offer as an inducement for potential

customers to choose its service and is in a position to provide free labor to the Developer so that its service will be chosen.

15. While both CREC's and Ameren Missouri's facilities are adjacent to the Kersting Road development, the Company's facilities are so close to the development that the developer would incur no extension costs in order to provide services. As a result, the incentives currently contemplated by Tariff Sheet No. 161 are not available and Ameren Missouri has no other alternative incentive option available to it as authorized under the tariff. The Company therefore requires a waiver of the tariff restrictions in order to offer an incentive that it knows the customer both needs and wants. Ameren Missouri would not attribute the incremental \*\* \_\_\_\_\_  
\_\_\_\_\_\*\* to its energy efficiency programs, but would instead attribute this to its division budget as it would a typical service extension incentive request.

16. Ameren Missouri can demonstrate good cause for incurring this expenditure from several perspectives. From a very basic perspective, if the Company can gain new customers, then existing fixed costs can be spread among billing units associated with a larger customer base, which generally creates a downward pressure on rates. More specific to this project:

- In incurring even the atypical incremental cost to provide the service to this subdivision, Ameren Missouri would gain an approximate annual revenue stream of approximately \*\* \_\_\_\_\_\*\* or more. See Confidential Appendix 6 to this pleading for the calculation of the annual revenue stream. The annual revenue stream gained from serving the Kersting Road development should quickly outweigh the cost necessary to gain the load.
- Although the developers are prepared for the Company to provide service, the Company believes that without the ability to effectively waive the restrictions Tariff Sheet No. 161, which limits the incentive options available \*\* \_\_\_\_\_  
\_\_\_\_\_\*\*, the Developer will acquire service from CREC.



- Ameren Missouri's facilities are immediately adjacent to the proposed development, so providing service to the area will cause no extension costs and promote more efficient use of the existing distribution system.

#### **IV. Motion for Expedited Treatment**

17. Finally, Ameren Missouri requests expedited treatment of this *Application*. The Company requests approval by October 22, 2020, so that the Developer can stay on schedule for the construction of the development. This *Application* could not be completed more quickly because the Company did not know that it had competition for this load until September 9, 2020.

**WHEREFORE**, having shown good cause for the requested waiver of the Promotional Practice Rules and portions of the company's tariffs, Ameren Missouri respectfully requests the Commission:

- (i) Approve both this *Application* and the simultaneously filed tariff in an expedited manner so that Ameren Missouri may accommodate the Developer's schedule;
- (ii) Approve Ameren Missouri's request to waive the relevant requirements of Tariff Sheet Nos. 161 as requested;
- (iii) Waive the 60-day notice requirement of 20 CSR 4240-4.017, and allow this *Application*, which is being served upon the competing electric cooperative, to serve as notice of the case filing; and
- (iv) Grant any other relief deemed appropriate by the Commission under the circumstances.

Respectfully submitted,

By: /s/ Paula N. Johnson-----

Paula N. Johnson, #68963

Senior Corporate Counsel

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**ATTORNEY 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 24th day of September, 2020.

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*Paula N. Johnson*

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Paula N. Johnson

**APPENDICES TO APPLICATION**  
**Appendix Number and Description**

- Appendix 1 – Company's Affidavit in Support of *Application* and Verification of Proper Authority
- Appendix 2 - Certificate of Good Corporate Standing
- Appendix 3 - Subdivision Layout
- Appendix 4 - September 9, 2020 Customer Correspondence – CONFIDENTIAL
- Appendix 5 - September 23, 2020 Customer Correspondence - CONFIDENTIAL
- Appendix 6 - Revenue Stream Calculation - CONFIDENTIAL