

**BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION**

CITY OF O’FALLON, MISSOURI, and	)	
CITY OF BALLWIN, MISSOURI,	)	
	)	
Complainants	)	File No: EC-2014_____
vs.	)	
	)	
UNION ELECTRIC COMPANY d/b/a	)	
AmerenUE	)	
Respondent.	)	

**COMPLAINT**

COME NOW the City of O’Fallon, Missouri, (“O’Fallon”) and the City of Ballwin, Missouri, (“Ballwin”), pursuant to Sections 386.230, 386.390, 393.130, 393.190 and 393.230 RSMo, and Missouri Public Service Commission (“Commission”) Rule 4 CSR 240-2.070, and for their Complaint against Union Electric Company d/b/a AmerenUE (“Ameren”), state as follows:

**PARTIES**

1. The City of O’Fallon (“O’Fallon”) is a Missouri Constitutional Home Rule Charter City under Article 6 Section 19 of the Missouri Constitution organized and existing under the laws of the State of Missouri with its principal office located at 100 North Main Street, O’Fallon, Missouri 63366. O’Fallon is located in St. Charles County and has a population of approximately 81,979 residents. O’Fallon is a customer of Ameren UE and specifically is a street lighting customer of Ameren.

2. The City of Ballwin (“Ballwin”) is a Fourth Class City organized and existing under the laws of the State of Missouri with its principal office located at 14811 Manchester Road, Ballwin, Missouri 63011. Ballwin is located in St. Louis County and has a population of approximately 30,433 residents. Ballwin is a customer of Ameren UE and specifically is a street lighting customer of Ameren.

3. Ameren is a Missouri corporation with its principal place of business at 1901 Chouteau, St. Louis, MO 63116. Ameren is an electrical corporation as defined in Section 386.020(15) RSMo., engaged in the business of generating, purchasing, transmitting, distributing and selling electric energy in Missouri. Ameren is a public utility subject to the jurisdiction of this Commission.

4. All inquiries, correspondence, communications, pleadings, notices, orders, and decisions relating to this matter should be directed to:

Leland B. Curtis  
Robert E. Jones  
Edward J. Sluys  
Curtis, Heinz, Garrett & O'Keefe, P.C.,  
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#### **JURISDICTION**

5. The Commission has general jurisdiction over Ameren as an electrical corporation pursuant to Sections 386.250 and 393.140 RSMo. The Commission has jurisdiction of this Complaint under Section 393.130, 386.390, and Regulation 4 CSR 240-2.070. Furthermore, the Commission has jurisdiction to value and approve the transfer of property pursuant to Sections 393.230 and 393.190, respectively.

## **COUNT I**

### **FACTS ALLEGED**

6. O'Fallon is a street lighting customer of Ameren and pays over one million dollars (\$1,000,000.00) per year to Ameren for its streetlights. A copy of one of O'Fallon's recent monthly street lighting bills is attached as Exhibit "A".

7. O'Fallon has approximately four thousand four hundred forty four (4,444) street lights of various kinds, all of which are owned by Ameren. As such, O'Fallon pays monthly rates under Ameren's 5(M) Company-Owned Street and Outdoor Area Lighting Tariffs (Ameren Tariff Sheets #58, 58.2, 58.3, 58.4 and 58.5).

8. Ballwin is also a street lighting customer of Ameren and pays over Five Hundred Thousand Dollars (\$500,000.00) annually to Ameren for street lighting. A copy of one of Ballwin's recent monthly street lighting bills is attached as Exhibit "B".

9. Ballwin has approximately two thousand one hundred and fifty nine (2,159) street lights of various kinds, all of which are owned by Ameren. As such, Ballwin pays monthly rates under Ameren's 5(M) Company-Owned Street and Outdoor Area Lighting Tariffs (Ameren Tariff Sheets #58, 58.2, 58.3, 58.4 and 58.5).

10. Ameren has another set of street lighting tariffs entitled: Street and Outdoor Area Lighting Customer owned, Service Classification No. 6(M) (Ameren Tariff Sheets #59, 59.1, 59.2 and 59.3). Ameren's monthly rates for "customer owned" lights are for "Energy and Maintenance" and are considerably less than the rates for "company owned" lights.

11. If O'Fallon were to own its 4,444 street lights and pay for street lighting under the 6(M) Customer Owned Tariff, it would pay approximately \$180,000.00 annually to

Ameren for street lighting and save approximately \$820,000.00 annually from what it is now paying.

12. If Ballwin were to own its 2,159 street lights and pay for street lighting under the 6(M) Customer Owned Tariff, it would pay approximately \$94,000.00 annually to Ameren for street lighting and save approximately \$400,000.00 annually from what it is now paying.

13. Paragraph 7 (Sheet 58.5) of Ameren's 5(M) Company-Owned Street Lighting tariff states:

“7. **Termination**

If customer requests in writing the termination of all or a portion of any lighting service, not paid for in advance, within three years of the installation of the lamps being terminated, or within ten years of the installation of post top luminaires, wood poles or cable being terminated, customer shall pay in advance to Company \$100.00 per lamp for both the removal costs associated therewith and the loss of the remaining life value of such facilities. If said request for termination of lighting service is made after the above three and ten year in-service periods, as applicable, and customer requests a new lighting installation within twelve months after the removal of the prior terminated lighting facilities, customer shall pay the amount specified earlier in this paragraph for all facilities previously removed prior to Company making any new lighting installation.”

14. O'Fallon and Ballwin have each separately approached and met with Ameren representatives about issuing a written termination of its street lighting service pursuant to Paragraph 7 of Ameren's 5(M) Street and Outdoor Area Lighting Company-Owned Tariff (Sheet #58.5) and instead of having Ameren remove the street lights, O'Fallon and Ballwin purchasing the street lights at fair market value from Ameren. Ameren has refused to discuss the sale of its lights to either city and has declined to say why it refuses to discuss such a sale.

15. The vast majority of O'Fallon's and Ballwin's street lights have been in service for over ten years. If O'Fallon and Ballwin were to issue termination notices pursuant to Paragraph 7, *supra*, Ameren would most certainly incur substantial costs to remove the 6,603 street lights. Ameren would also incur significant costs if, after removal, it wishes to destroy or refurbish the removed street lights. Ameren would also incur costs (and losses) if it attempted to sell the removed street lights, refurbished or not. O'Fallon and Ballwin stand ready to purchase their street lights, *in situ*, pay Ameren fair market value, assume maintenance and replacement of the street lights, and make future payments to Ameren for the street lighting under Ameren's 6(M) Customer-Owned Tariffs. By selling the street lights to O'Fallon and Ballwin, Ameren would avoid the cost to remove and dispose of 6,603 street lights while gaining the economic benefit of receiving fair market value for the street lights.

16. Ameren's refusal to engage in discussions and negotiations with O'Fallon and Ballwin over the sale of the existing street lights within each respective city is unreasonable, uneconomic and not in the public interest.

WHEREFORE, Complainants O'Fallon and Ballwin respectfully request this Commission find and order that Ameren's refusal to sell its street lights at fair market value, after termination by the two cities, pursuant to paragraph 7 of Ameren's Company Owned Street Lighting Tariff Sheet No. 58.5 is unreasonable, uneconomic and contrary to the public interest and order Ameren to negotiate in good faith with O'Fallon and Ballwin to establish fair market value for its street lights and offer to sell said street lights to the two cities at fair market value.

## **COUNT II**

17. O'Fallon and Ballwin reallege and incorporate the matters stated in Paragraphs 1-16 heretofore.

18. Paragraph 7 of Ameren's 5(M) Street and Outdoor Area Lighting Company-Owned Tariff (Sheet #58.5) is unreasonable and unlawful because it does not permit a municipality, upon termination of all or a portion of its street lighting service, to purchase at fair market value the street lights that Ameren would proceed to remove and dispose of, in violation of Section 386.390 RSMo and 393.130 RSMo.

19. O'Fallon and Ballwin request this Commission order Ameren to revise and amend Paragraph 7 (Sheet 58.5) of Ameren's 5(M) Company-Owned Street Lighting Tariff to allow any Missouri municipality, after ten years of street lighting service, the option of purchasing, in situ, the street lights within its city limits at fair market value.

WHEREFORE, Complainants O'Fallon and Ballwin respectfully request this Commission order Ameren to revise and amend Paragraph 7 (Sheet 58.5) of its 5(M) Company-Owned Street Lighting Tariff to allow any Missouri municipality, after ten years of street lighting service, the option of purchasing, in situ, the street lights within its city limits at fair market value.

### **COUNT III**

20. O'Fallon and Ballwin reallege and incorporate the matters stated in Paragraphs 1-19 heretofore.

21. In the alternative, and with Ameren's consent, O'Fallon and Ballwin would be agreeable to having the Commission serve as an arbitrator in this matter pursuant to its powers granted in section 386.230 RSMo.

WHEREFORE, Complainants O'Fallon and Ballwin respectfully request that this Commission ask Ameren for its consent to have the Commission serve as an arbitrator in this dispute.

Respectfully submitted,

CURTIS, HEINZ,  
GARRETT & O'KEEFE, P.C.

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Attorneys for O'Fallon and Ballwin

**CERTIFICATE OF SERVICE**

I do hereby certify that a true and correct copy of the foregoing document has been emailed  
this \_\_\_\_ day of April, 2014 to:

Lewis R. Mills, Jr.  
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<b>SERVICE</b>	OF STREET LITES
<b>AT</b>	0 FALLON, MO 63366

<b>TOTAL AMOUNT DUE BY</b>	Feb 14, 2014	\$84,325.36
<b>DELINQUENT AFTER</b>	Feb 26, 2014	\$85,590.24

Payment Received on Jan 22, 2014

\$84,559.26

# SUMMARY

Service To  
Lighting kWh 02/01/2014

249226.0000

# LIGHTING SERVICE BILLING

Service From 01/01/2014

To 02/01/2014

FEB 07 2014

Service To  
**RECEIVED**

Rate 5M Company-Owned Lighting-Municipal  
Municipal Lighting Discount Rider

UG Cable in Dirt with Discount

Finance  
Department

Lighting Charge  
Underground Cable/Wiring  
Cable in Dirt Discount  
Municipal Lighting Discount  
Fuel Adjustment Charge  
Total Service Amount

0.00  
0.00  
93,694.84  
249,226.00 kWh

@ \$1.00000000  
@ \$1.00000000  
@ \$1.00270000

\$93,021.93  
\$0.00  
\$0.00  
-\$9,369.48  
\$672.91

\$84,325.36

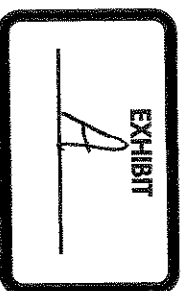
QUANTITY	DESCRIPTION	MONTHLY RATE	PRORATE FACTOR	AMOUNT	DATE SERVICE TO
1	34000 MH Direct	21.63	1.00000000	21.63	Feb 1, 2014
4	36000 MH Direct	21.63	1.00000000	86.52	Feb 1, 2014
1	9500 HPS Enclosed	11.79	1.00000000	11.79	Feb 1, 2014
58	20000 MV Enclosed	17.04	1.00000000	988.32	Feb 1, 2014
170	6800 MV Open Btm	10.43	1.00000000	1773.10	Feb 1, 2014
3820	9500 HPS Post Top	21.85	1.00000000	83467.00	Feb 1, 2014
110	6800 MV Post Top	21.85	1.00000000	2403.50	Feb 1, 2014
13	50000 HPS Enclosed	30.38	1.00000000	394.94	Feb 1, 2014
123	25500 HPS Enclosed	17.04	1.00000000	2095.92	Feb 1, 2014
1	25500 HPS Direct	21.63	1.00000000	21.63	Feb 1, 2014
2	100000 MH Direct	68.38	1.00000000	136.76	Feb 1, 2014
5	50000 HPS Direct	34.21	1.00000000	171.05	Feb 1, 2014
139	9500 HPS Open Btm	10.43	1.00000000	1449.77	Feb 1, 2014

Current Amount Due \$84,325.36  
Prior Amount Due \$0.00  
Total Amount Due \$84,325.36

The ActOnEnergy® BizSavers® program has CASH INCENTIVES available for your next energy efficiency project! Everything from lighting to controls to new construction. Visit ActOnEnergy.com/BizSavers to learn more.

A late payment charge of 1.5% will be added for any unpaid balance on all accounts after the delinquent date.

210.340.5910  
JMM 2/10/14



102923

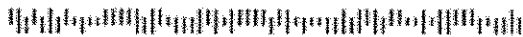




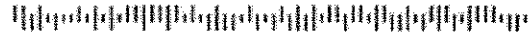
Please Return This Portion With Your Payment.

AMOUNT DUE	DUE DATE
\$44,167.76	Apr 16, 2014
AMOUNT PAYABLE AFTER Apr 28, 2014	ACCOUNT NUMBER
\$44,830.28	49410-03712

Amount Enclosed \$ 44167.76



>00430 2089574 0001 092139 30430 1AT0406 30430  
CITY OF BALLWIN  
STREET LIGHT SERVICE  
14811 MANCHESTER RD  
BALLWIN, MO 63011



Ameren Missouri  
P.O. Box 66301  
St. Louis, MO 63166-6301

40600000 0049410037102 000044167760 000044167760

Keep This Portion For Your Records

ACCOUNT NUMBER	49410-03712
NAME	CITY OF BALLWIN
SERVICE	14811 MANCHESTER RD
AT	BALLWIN, MO 63011

BILL DATE	Apr 4, 2014
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TOTAL AMOUNT DUE BY	Apr 16, 2014	\$44,167.76
DELINQUENT AFTER	Apr 28, 2014	\$44,830.28

Payment Received on Mar 20, 2014

\$40,467.53

Lighting kWh Service To 04/01/2014

97573.0000

#### SUMMARY

Service To

#### LIGHTING SERVICE BILLING

Rate 5M Company-Owned Lighting-Municipal  
Municipal Lighting Discount Rider

Service From 03/01/2014 To 04/01/2014

Lighting Charge		\$45,376.52
Municipal Lighting Discount	45,639.97	@ -1.00000000 \$4,564.00
Fuel Adjustment Charge	97,573.00 kWh	@ \$0.00270000 \$263.45
Total Service Amount		\$41,075.97
Ballwin Municipal Charge		\$3,091.79
Total Tax Related Charges		\$3,091.79

QUANTITY	DESCRIPTION	MONTHLY RATE	PRORATE FACTOR	AMOUNT	DATE SERVICE TO
106	9500 HPS Enclosed	11.79	1.00000000	1249.74	Apr 1, 2014
2	6800 MV Open Btm	10.43	1.00000000	20.86	Apr 1, 2014
2	9500 HPS Post Top	21.85	1.00000000	43.70	Apr 1, 2014
1915	9500 HPS Post Top	21.85	1.00000000	41842.75	Apr 1, 2014
1	50000 HPS Enclosed	30.38	1.00000000	30.38	Apr 1, 2014
116	25500 HPS Enclosed	17.04	1.00000000	1976.64	Apr 1, 2014
5	25500 HPS Direct	21.63	1.00000000	108.15	Apr 1, 2014
10	9500 HPS Open Btm	10.43	1.00000000	104.30	Apr 1, 2014

Current Amount Due	\$44,167.76
Prior Amount Due	\$0.00
Total Amount Due	\$44,167.76

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A late payment charge of 1.5% will be added for any unpaid balance on all accounts after the delinquent date.

RECEIVED APR 07 2014

01-01-03-213005

