

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 6<sup>th</sup> day of January, 2016.

In the Matter of Union Electric Company d/b/a Ameren Missouri's LED Street Lighting Update and Tariff Filing	)	
	)	<b><u>File No. ET-2016-0152</u></b>
	)	Tariff No. YE-2016-0159

**ORDER REGARDING TARIFF**

Issue Date: January 6, 2016

Effective Date: January 16, 2016

Procedural history

On December 17, 2015, Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri") filed its LED Lighting Update Report ("LED Report") in compliance with the *Nonunanimous Stipulation and Agreement Regarding MEEIA Low Income Exemption and LED Streetlighting Issues*, which was submitted in File No. ER-2014-0258 and approved by the Commission on March 21, 2015. Ameren Missouri also filed an associated tariff with an effective date of January 16, 2016. One of the tariff sheets was substituted on December 23, 2015. The City of O'Fallon and the Missouri Department of Economic Development-Division of Energy were granted intervention on December 29, 2015.

Ameren Missouri states that the LED Report is the third annual evaluation of cost-effectiveness for LED lighting, and, for the first time, LED street lighting is cost-effective for a large portion of Ameren Missouri's street lights. Ameren Missouri plans to convert approximately 25,000 enclosed and open-bottom street lighting facilities per year to LED over the next five years as part of its routine maintenance, beginning in the second quarter of 2016. Customer rates for the most common LED lights will be about \$1 per

month less than the current lighting options, which is nearly a 10% reduction in the monthly charge. After five years, approximately 66% of Ameren Missouri's street lighting system will be converted to LEDs, which will reduce the total 5M rate class energy consumption by more than 40%. The revised street lighting tariff filed in this matter reflects a lower monthly rate for LED street lighting than the rate that is currently charged for non-LED street lights.

On December 31, 2015, Staff filed a verified recommendation and memorandum advising the Commission to approve Ameren Missouri's tariff sheets. The City of O'Fallon filed a response stating that it agrees with the Staff recommendation. The Office of the Public Counsel ("OPC") filed a Motion to Reject Tariff Sheets, arguing that the Commission must reject Ameren Missouri's proposed tariff sheets because approval of those tariff sheets would be impermissible single-issue ratemaking and the tariff sheets are not supported by evidence in the record. No party has disputed the facts contained in the LED Report or the Staff recommendation and memorandum.

### Discussion

Missouri's prohibition against single-issue ratemaking bars the Commission from allowing a public utility to change an existing rate without consideration of all relevant factors, such as operating expenses, revenues, and rates of return.<sup>1</sup> OPC argues that the Commission may not lawfully approve Ameren Missouri's proposed tariff sheets because those tariff sheets change existing rates, which requires the consideration of all relevant factors in a general rate case to avoid impermissible single-issue ratemaking. OPC's assertion is incorrect. The tariff sheets do not change the rates for the existing types of streetlights, but rather maintain those existing rates at their current level and provide additional rates for new LED lights. The rationale behind the single-issue ratemaking

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<sup>1</sup> *State ex rel. Util. Consumers Council of Mo., Inc. v. Public Service Commission*, 585 S.W.2d 41, 56-58 (Mo.banc 1979).

prohibition is to prevent the Commission from allowing a utility to “raise rates to cover increased costs in one area without realizing there were counterbalancing savings in another area.”<sup>2</sup> This rationale does not apply in this case because Ameren Missouri tariffs have never established a rate for LED streetlights, which is a new type of service.<sup>3</sup> The Commission has approved other tariff sheets in the past outside of a rate case that set a rate for a new service.<sup>4</sup> Since the Ameren Missouri tariff sheets do not change existing rates, it is lawful for the Commission to approve the tariff sheets without the necessity of conducting a general rate case.<sup>5</sup>

OPC also objects that the tariff sheets should be rejected because approval is not reasonable unless it is based on substantial and competent evidence in the record. Since the tariff sheets have not been suspended and no party has requested a hearing, this is a non-contested case.<sup>6</sup> Non-contested cases do not require formal proceedings or hearings before the Commission, and as such, there is no evidentiary record.<sup>7</sup> The competent and substantial evidence standard of the Missouri Constitution, Article V, Section 18, does not apply to administrative cases in which a hearing is not required by law.<sup>8</sup> Since in a non-contested case the Commission is not required to make findings of fact and there is no

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<sup>2</sup> *State ex rel. Midwest Gas Users' Assoc. v. Public Service Commission of Mo.*, 976 S.W.2d 470, 480 (Mo.App. 1998).

<sup>3</sup> See, *State ex rel. Sprint Spectrum L.P. v. Missouri Public Service Commission*, 112 S.W.3d 20, 28-29 (Mo.App. 2003). Where the Commission allowed rural telephone companies to charge tariffs for completing wireless calls, the Court found that the tariffs were for a new service and did not change existing rates for existing service. The Court held that in those circumstances the single-issue ratemaking prohibition did not bar the Commission from approving the tariffs.

<sup>4</sup> See, File Nos. ER-2014-0258 (new tariff for standby service), EO-2013-0367 (new rate for class 6M LED lights), and EA-2005-0180 (added entire rate class).

<sup>5</sup> *State ex rel. Sprint Spectrum L.P. v. Missouri Public Service Commission*, 112 S.W.3d 20, 28 -29 (Mo.App. 2003).

<sup>6</sup> The laws under which the tariff was filed, Sections 393.140(11) and 393.150, RSMo, do not require a hearing to be held in all circumstances. Section 536.010(4), RSMo, defines a “contested case” as “a proceeding before an agency in which legal rights, duties or privileges of specific parties are required by law to be determined after hearing.”

<sup>7</sup> *Sapp v. City of St. Louis*, 320 S.W.3d 159, 163 (Mo. App. 2010).

<sup>8</sup> *State ex rel. Public Counsel v. Public Service Commission*, 210 S.W.3d 344, 354 (Mo. App. 2006).

evidentiary record, a reviewing court does not examine the reasonableness of the Commission's order.<sup>9</sup> The Staff recommendation and memorandum filed in this matter were verified by affidavit, and no party has disputed the facts contained in the LED Report or the Staff recommendation and memorandum. The Commission concludes that OPC's argument is not applicable to this case.

Approval of the tariff sheets will benefit customers in that rate class by reducing their rates, and will benefit the general public by greatly reducing energy consumption by those customers. The Commission concludes that the LED Report should be accepted, and the proposed tariff sheets should be approved.

Ameren Missouri also requests that the Commission find that the conditions in the stipulation and agreement submitted in File No. ER-2014-0258 have been satisfied and that no further LED reports need to be submitted. OPC, the City of O'Fallon, and Staff oppose this request. Staff states that the stipulation relied on by Ameren Missouri contains no terms that would extinguish the annual LED reporting requirement established in the Commission's *Order Approving Tariff* directing Ameren Missouri to "update its analysis annually, and to report the results of its annual update to Staff" in File No. EO-2013-0367. Ameren Missouri has asserted its intent to implement a five-year LED conversion plan of its enclosed and open bottom street lighting, which Staff contends preserves a Commission interest in receiving the annual LED report of the cost-effectiveness of the planned conversion within the bounds set forth in the initial Commission order. Staff recommends that the Commission order Ameren Missouri to continue to provide Staff with annual updates to its economic analysis of LED street lights.

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<sup>9</sup> *Id.*

However, starting in 2016, Staff recommends that this reporting requirement be amended to contain: 1) An analysis on the cost-effectiveness of converting the remaining 5(M) Company-Owned Street Lighting to LED and Ameren's intentions to do so; and 2) a status report on the progress Ameren has made in conversion of its enclosed and open bottom light types to LED. The status report should contain a detailed description of the following information with annual incremental and cumulative data whenever appropriate: 1) the number of fixtures replaced with LEDs; 2) any maintenance related issues with the LED replacements; 3) all costs associated with the LED conversion; 4) total revenue of the 5(M) Company-Owned Street Lighting rate class; 5) kilowatt-hour consumption of the 5(M) Company-Owned Street Lighting rate class; and 6) number of customers making early conversion requests. In addition, Staff recommends that the Commission instruct Ameren Missouri to uniquely identify the LED fixtures within the overall lighting asset account that also includes poles, wires, etc. so that all costs and revenues associated with the LED conversion within the 5(M) Company-Owned Street Lighting rate class can be exclusively identified for future class cost of service studies. The Commission will deny Ameren Missouri's request to discontinue the requirement to submit annual LED reports, but will modify that requirement beginning in 2016 as Staff has proposed above.

OPC also requests that the Commission require Ameren Missouri to provide notification of the change in the tariff to its customers. Ameren Missouri has agreed to provide notice to customers. The Commission will direct Ameren Missouri to provide such notice with its existing bill over a billing cycle to limit the costs of providing the notice.

**THE COMMISSION ORDERS THAT:**

1. Union Electric Company d/b/a Ameren Missouri's LED Lighting Update Report filed on December 17, 2015, is accepted.

2. The proposed tariff sheets submitted under Tariff No. YE-2016-0159 by Union Electric Company d/b/a Ameren Missouri, as substituted, are approved effective on and after January 16, 2016. The specific tariff sheets approved are:

**MO. P.S.C. Schedule No. 6**

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- 2<sup>nd</sup> Revised Sheet No. 58, Canceling 1<sup>st</sup> Revised Sheet No. 58
- 2<sup>nd</sup> Revised Sheet No. 58.1, Canceling 1<sup>st</sup> Revised Sheet No. 58.1
- 2<sup>nd</sup> Revised Sheet No. 58.2, Canceling 1<sup>st</sup> Revised Sheet No. 58.2
- 1<sup>st</sup> Revised Sheet No. 58.3, Canceling Original Sheet No. 58.3
- 1<sup>st</sup> Revised Sheet No. 58.4, Canceling Original Sheet No. 58.4
- 1<sup>st</sup> Revised Sheet No. 58.5, Canceling Original Sheet No. 58.5

3. Union Electric Company d/b/a Ameren Missouri's request to discontinue the requirement to submit annual LED reports is denied. The requirement to submit annual LED reports beginning in 2016 is modified as Staff has proposed above in the body of this order.

4. The Office of the Public Counsel's Motion to Reject Tariff Sheets is denied.

5. Union Electric Company d/b/a Ameren Missouri shall provide notice to its customers of the change in the tariff sheets under Tariff No. YE-2016-0159 using its existing bill over a billing cycle.

6. This order shall become effective on January 16, 2016.

7. This file shall be closed on January 17, 2016.

**BY THE COMMISSION**



Morris L. Woodruff  
Secretary



Hall, Chm., Stoll, Kenney,  
Rupp, and Coleman, CC., concur.

Bushmann, Senior Regulatory Law Judge