

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 24th day of March, 2021.

In the Matter of the Application of Union)
Electric Company d/b/a Ameren Missouri)
for Permission and Approval and a)
Certificate of Public Convenience and)
Necessity Under 20 CSR 4240-3.105)

File No. EA-2020-0371

**ORDER APPROVING STIPULATION AND AGREEMENT AND
GRANTING CERTIFICATE OF CONVENIENCE AND NECESSITY**

Issue Date: March 24, 2021

Effective Date: April 3, 2021

This case concerns the application of Union Electric Company d/b/a Ameren Missouri (Ameren Missouri) requesting a certificate of convenience and necessity (CCN) under Subsection 393.170.1, RSMo (Supp. 2020). Ameren Missouri seeks a CCN authorizing it to construct, install, own, operate, maintain, and otherwise control and manage a solar generating asset and all associated facilities in Montgomery County, Missouri, to serve as the second Program Resource for Ameren Missouri's Community Solar Pilot Program (Program). Ameren Missouri, the Staff of the Commission (Staff), the Office of the Public Counsel (Public Counsel), and Renew Missouri Advocates d/b/a Renew Missouri (Renew Missouri) (collectively referred to as "Signatories") filed a *Unanimous Stipulation and Agreement* on March 15, 2021, which resolves all the issues among the parties and requests the Commission grant Ameren Missouri a CCN with conditions.

The agreement represents that Sierra Club, the only party that did not sign the agreement, does not object to the agreement. Commission regulations allow non-

signatory parties seven days to object to a nonunanimous stipulation and agreement.¹ If no party timely objects, the Commission may treat the agreement as unanimous.² More than seven days have elapsed since the agreement was filed and no party objected. Thus, the Commission will treat the agreement as unanimous.

Background

In File No. EA-2016-0207, the Commission approved Ameren Missouri's Community Solar Pilot Program and associated tariff, and granted Ameren Missouri a CCN for its first Program Resource — the St. Louis Lambert International Airport solar generation facility. The Program launched in the fall of 2018, and was fully subscribed in 55 days. Construction of the Program's one-megawatt Lambert facility was completed in August 2019.

On November 25, 2019, Ameren Missouri filed an application and associated tariff to expand the Program.³ On May 28, 2020, the Commission approved a unanimous stipulation and agreement that continued and modified certain provisions related to two previous agreements in File No. EA-2016-0207. The approved unanimous stipulation and agreement and tariff allowed Ameren Missouri to market the Program to customers so that Ameren Missouri could determine the need for future Program resources.

On October 28, 2020, Ameren Missouri filed the application for a CCN currently before the Commission. The tariff governing the Program requires that at least 90% of a resource be subscribed prior to commencing construction. Ameren Missouri explained that, as of October 19, 2020, over 93% of the proposed Montgomery County facility's

¹ 20 CSR 4240-2.115(2)(B).

² 20 CSR 4240-2.115(2)(C).

³ File No. ET-2020-0022.

planned capacity was subscribed.⁴ The Commission issued notice of the application and directed Staff to file a recommendation. On February 5, 2021, Staff filed its report finding that Ameren Missouri met the initial filing requirements for a CCN application, concluding that all five Tartan criteria are met,⁵ and recommending approval of the application, subject to nine conditions. Subsequently, the parties had discussions and reached an agreement that the CCN for the Montgomery County facility should be granted with certain reasonable and necessary conditions.

Certificate of Convenience and Necessity

With regard to the application for a CCN, Ameren Missouri is an “electrical corporation” and a “public utility” as defined in Subsections 386.020(15) and (43), RSMo 2016. According to Subsections 393.170.1 and .2, RSMo (Supp. 2020), an electrical corporation may not construct electrical plant, with the exception of an energy generation unit of one megawatt or less, without first obtaining the permission and approval of this Commission. In granting a certificate, the Commission may give permission and approval when it has determined after due hearing⁶ that the construction is “necessary or convenient for the public service.”⁷ The Commission may also impose such conditions as it deems reasonable and necessary upon its grant of permission and approval.⁸

⁴ In paragraph 8 of the *Unanimous Stipulation and Agreement* filed on March 15, 2021, Ameren Missouri states that more than 100% of the Montgomery County Program Resource’s capacity is subscribed.

⁵ Referring to the criteria set out in *In re Tartan Energy Company*, 3 Mo.P.S.C. 173, 177 (1994) (“Tartan”).

⁶ The requirement for a hearing is met when the opportunity for hearing is provided and no proper party requests the opportunity to present evidence. No party requested a hearing in this matter; thus, no hearing is necessary. *State ex rel. Deffenderfer Enterprises, Inc. v. Public Service Comm’n of the State of Missouri*, 776 S.W.2d 494 (Mo. App. W.D. 1989).

⁷ Section 393.170.3, RSMo 2016.

⁸ Section 393.170.3, RSMo 2016.

Ameren Missouri requests authority to construct, own, operate, and maintain a solar generation facility for the continuation and expansion of its solar subscription pilot program. The parties to this proceeding have extensively negotiated the need for and the terms of this program and have agreed that the Commission should grant the CCN with certain conditions.

The Montgomery County facility will consist of approximately 6.16 megawatts of alternating current, single-axis, ground-mounted, tracking photovoltaic panels and associated facilities. The Montgomery County facility will be located on agricultural land currently owned by Ameren Missouri. Ameren Missouri has obtained a Conditional Use Permit from Montgomery County, Missouri. Ameren Missouri intends to apply for a land disturbance permit from the Missouri Department of Natural Resources just prior to the commencement of construction.

The Commission has commonly used five criteria as in determining whether construction and operation of a facility are necessary or convenient for the public service:

1. There must be a need for the service;
2. The applicant must be qualified to provide the proposed service;
3. The applicant must have the financial ability to provide the service;
4. The applicant's proposal must be economically feasible; and
5. The service must promote the public interest.⁹

In its application, Ameren Missouri explained that the expansion of its pilot program will allow more of its customers to voluntarily subscribe to the program thereby supporting the development of solar facilities by Ameren Missouri. Ameren Missouri stated that this

⁹ *In re Tartan Energy Company*, 3 Mo.P.S.C. 173, 177 (1994).

program would further the company's commitment to renewable generation in the state of Missouri. Additionally, Ameren Missouri stated that the fact that the Program is already fully subscribed with some customers having been on a waitlist for over two years, demonstrates there is a need for the company to support the desire of its customers for energy supplied from renewable sources. Ameren Missouri supported these statements with the sworn testimony of Annemarie Nauert and Scott J. Wibbenmeyer attached to its application.

The application also demonstrates, and the Signatories have agreed that Ameren Missouri is qualified to construct, install, own, operate, maintain, and otherwise control and manage this solar project and it is financially able to provide this service. The signatory parties also agree the project is economically feasible and is in the public interest. The Commission concludes that granting the application for a CCN meets the above-listed criteria.

The Commission has reviewed the verified application and its attachments, the Staff report, and the agreement. The Commission finds that granting Ameren Missouri's application for a CCN would serve the public convenience and necessity. Therefore, the application will be granted.

Conditions

Staff's report and recommendation set out nine conditions including the conditions, with some modifications, that were placed on the original solar pilot program CCN in File No. EA-2016-0207. After further discussions with Ameren Missouri and the other parties, agreement was reached as to which conditions are reasonable and necessary to be applied to the Montgomery County facility.

The Signatories agreed that Staff's proposed conditions 1, 2, and 9 should be imposed without modification, Staff's proposed conditions 3, 4, 6, and 8 should be imposed with modifications, and no other conditions should be imposed. The Commission has considered the conditions set out in the *Unanimous Stipulation and Agreement* and finds that they are reasonable and necessary to the grant of the CCN.

Conclusion

The Commission approves the agreement and grants Ameren Missouri a CCN for the Montgomery County facility with the reasonable and necessary conditions as set out in the ordered paragraphs below.

Ameren Missouri has requested, and the agreement contemplates that the Commission will approve the certificate no later than April 1, 2021. No party has opposed the current application or agreement. Therefore, this order will be given a ten-day effective date.

THE COMMISSION ORDERS THAT:

1. The *Unanimous Stipulation and Agreement* filed on March 15, 2021, and attached hereto is approved. The attached stipulation and agreement is incorporated into this order as if set forth herein. The parties are ordered to comply with the provisions of the stipulation and agreement.

2. Ameren Missouri is granted a certificate of public convenience and necessity to construct, install, own, operate, maintain, and otherwise control and manage a solar generating asset and associated facilities in Montgomery County, Missouri, under its expanded Community Solar Pilot Program as described in the *Unanimous Stipulation and Agreement*.

3. Ameren Missouri's certificate is granted with the following conditions:
 - a. Ameren Missouri shall contact the Missouri Department of Transportation (MODOT) and the Norfolk Southern Railway to inquire of any concerns with the Montgomery solar facility and, for MODOT, the additional issue of the possibility of glare and file documentation regarding the contact in this case file.
 - b. Ameren Missouri shall submit final plans and project specifications and the final operating and maintenance manual as they are available.
 - c. Staff and Ameren Missouri shall jointly file agreed upon in-service criteria for the Montgomery solar facility with the Commission within 90 days of granting the CCN. The filed in-service criteria will be used to evaluate whether the Community Solar facility, once operational, meets the fully operational and used for service standard in Section 393.135, RSMo.¹⁰
 - d. The conditions and recommendations agreed to in File Nos. EA-2016-0207 and ET-2020-0022 shall continue to apply to the new facility [Project], except as otherwise provided in this Stipulation.
 - e. Ameren Missouri shall track all revenues, investments, and expenses directly related to the Resource and any future Community solar resources and record them into separate accounts or subaccounts, to the extent practical, separately by facility starting with the in-service date for the facility. Ameren Missouri shall prepare, in support of future general rate cases, an analysis using reasonable allocation methods for those categories of expenses where it is not practical to specifically track the transactions in the general ledger.
 - f. The additional land at the Montgomery site shall remain in plant held for future use until a future use is identified for it.
 - g. The sharing mechanism described in paragraph 15 of the *Non-Unanimous Stipulation and Agreement* on pages 9-10 in File No. EA-2016-0207 will remain unchanged up to the confidential estimated total cost of the initial construction of the Project as set out in paragraph 24 of the Company's *CCN Application*.¹¹ If the actual costs of initial construction exceed the confidential estimated total cost of the initial construction of the Project as set out in paragraph 24 of the Company's *CCN Application*, customers will not share in any of the excess costs.

¹⁰ Ameren Missouri anticipates that the Project's in-service criteria will be similar to the in-service criteria used for Ameren Missouri's past solar projects (the O'Fallon Renewable Energy Center and the Lambert Resource).

¹¹ Filed October 28, 2020.

4. Nothing in this order shall be considered a finding by the Commission of the reasonableness of the expenditures herein involved, nor of the value for ratemaking purposes of the properties herein involved, nor as an acquiescence in the value placed on the property.

5. The Commission reserves the right to consider the ratemaking treatment to be afforded the expenditures and properties herein involved, and the resulting cost of capital, in any later proceeding.

6. This order shall be effective on April 3, 2021.



BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff". The signature is written in a cursive, flowing style.

Morris L. Woodruff
Secretary

Silvey, Chm., Kenney, Rupp, Coleman, and
Holsman CC., concur.

Dippell, Deputy Chief Regulatory Law Judge