

**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 Authority to Sell and	)	Case No. EA-2012-_____
Repurchase Coal and Lease Property.	)	

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

Union Electric Company d/b/a Ameren Missouri (“Ameren Missouri,” “Company” or “Applicant”), pursuant to 4 CSR 240-2.060 and 4 CSR 240-3.110 hereby submits to the Missouri Public Service Commission (“Commission”), its Application for authority pursuant to Section 393.190.1 RSMo. (2000) to sell coal, and lease a small portion of its property at the Rush Island Power Plant, as part of program to utilize refined coal in order to lower costs and reduce emissions. In support of its request, Applicant states as follows:

**I. APPLICANT**

1. Union Electric Company is a Missouri corporation doing business under the fictitious name of Ameren Missouri, in good standing in all respects, with its principal office and place of business located at One Ameren Plaza, 1901 Chouteau Ave., St. Louis, Missouri 63103. Applicant is engaged in providing electric and gas utility services in portions of Missouri as a public utility under the jurisdiction of the Commission. There is already on file with the Commission a certified copy of Applicant’s Articles of Incorporation (See Case No. EA-87-105), Applicant’s Fictitious Name Registrations as filed with the Missouri Secretary of State’s Office (See Case Nos. GO-98-486 and EO-2011-0069) and Applicant’s Certificate of Corporate Good Standing (See Case No. EO-2012-0134), and said documents are incorporated herein by reference and made a part hereof for all purposes.

2. Pleadings, notices, orders and other correspondence and communications concerning this Application should be addressed to:

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Managing Associate General Counsel  
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and

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3. Applicant has no pending action or final unsatisfied judgments or decisions against it from any state or federal agency or court which involve customer service or rates, which action, judgment, or decision has occurred within three years of the date of this Application, except the August 24, 2010 judgment of the Pemiscot County Circuit Court and Stoddard County Circuit Court (in consolidated writ of review proceedings) in Case Nos. 09PE-CV00070-01 and 10PE-CC00418, which judgment involves the review proceedings involving Ameren Missouri's 2009 electric rate case (Commission Case No. ER-2008-0318) and which judgment has been suspended pending appeal to the Missouri Court of Appeals for the Southern District of Missouri (Case No. SD30865).

4. Applicant has no overdue annual report or assessment fees.

## **II. REQUEST FOR AUTHORITY TO SELL COAL AND LEASE PLANT PROPERTY**

5. This Application seeks approval by the Commission pursuant to Section 393.190.1 RSMo. for the sale of an initial approximately \*\*\_\_\_\_\_\*\* tons of Power River Basin coal from the coal pile at the Rush Island Power Plant to Buffington Partners, LLC (“BP”), an affiliate of Coal Emission Reduction Technologies, LLC (“CERT”), and continued sales of coal at the Rush Island Plant for the remainder of the 10 year term of the transaction. BP will refine the coal using a proprietary process (known as “Chem-Mod”) designed to reduce emissions from the coal and then resell the coal back to Ameren Missouri at the same price for use at the plant. In addition, Ameren Missouri seeks authority to lease a small portion of its plant site to BP so that BP can place its coal refinement facilities on the site.

6. The program is based on Internal Revenue Code Section 45 which authorizes a tax credit for “refined coal.” Tax credits are to be based upon a process reducing emissions by amounts specified in the Internal Revenue Code. BP will be responsible for demonstrating these emissions reductions to satisfy Internal Revenue Code standards, and for all costs associated with the process including the cost of refinement equipment, labor, materials, and testing.

7. Ameren Missouri, as the host utility, will receive payments of \*\*\_\_\_\_\_\*\* per ton of refined coal in coal handling and licensing fees from BP over a ten year period, as well as a lease payment of \*\*\_\_\_\_\_\*\* per month for the property that BP is leasing at the plant site. It is expected that this program will produce revenues of approximately \*\*\_\_\_\_\_\*\* annually for coal used at the Rush Island Plant. In order to comply with the Internal Revenue Code, the coal must be sold to BP, treated, and then bought back by Ameren Missouri. Ameren Missouri will pay no capital or other costs for the installation of the facilities, or any operating costs associated with the Chem-Mod process.

8. A more complete explanation of the details of this transaction is provided in the direct testimony of Ameren Missouri witnesses Robert K. Neff and Mark C. Birk, filed concurrently with this Application. Attached to Mr. Neff's direct testimony are copies of the executed documents underlying the described transaction.

9. The Commission must approve the proposed transaction if it is not detrimental to the public interest. *See* 4 CSR § 240-3.110(1)(D). *See also State ex rel. Fee Fee Trunk Sewer v. Litz*, 596 S.W.2d 466, 468 (Mo. App. 1980) ("The obvious purpose of [Section 393.190] is to ensure the continuation of adequate service to the public served by the utility. The Commission may not withhold its approval of the disposition of assets unless it can be shown that such disposition is detrimental to the public interest." (citing *State ex. rel. City of St. Louis v. PSC*, 335 Mo. 448, 73 S.W.2d 393, 400 (Mo. banc 1934))).

10. The proposed sale of the coal and lease of property will cause no detriment to the public interest, and in fact will benefit the public since the coal will be environmentally improved by the Chem-Mod process performed by BP, in that the emissions at the Rush Island Power Plant will be reduced by the treatment process. Moreover, payments made by BP to Ameren Missouri will offset plant operations and maintenance expenses, to the ultimate benefit of Applicant's customers.

11. The proposed sale of the coal and lease of the property should have no impact upon the tax revenues of the political subdivision in which the assets are located.

### **III. MOTION FOR EXPEDITED TREATMENT**

12. In order for the tax benefits to apply, and for Ameren Missouri and its customers to receive the benefits of this transaction, BP's refining process must be operational at the Rush Island Plant before January 1, 2012. As a consequence, pursuant to 4 CSR 240-2.080(14), Ameren Missouri respectfully seeks expedited treatment of this matter and requests that the

Commission act as soon as possible, but in any event by December 20, 2011. Ameren Missouri engaged in lengthy negotiations with BP to ensure that its interests and its customers' interests would be fully protected in this transaction, and this pleading is being filed as soon as it could have been once the negotiations were complete. Further, there will be no negative effect on Ameren Missouri's customers or the general public if the Commission acts by the date requested.

13. To facilitate prompt consideration of this Application, Ameren Missouri met with the Commission Staff and the Office of the Public Counsel ("OPC") to explain the parameters of the transaction that the Company was attempting to negotiate. Staff and OPC suggested that if the transaction came to fruition, the Company should request that the Commission establish a shortened intervention period, and schedule an on-the-record proceeding where Company representatives and BP/CERT representatives could further explain the proposed transaction and answer any questions that the Commission or other parties may have. Ameren Missouri agrees with this approach, and therefore requests that the Commission establish a shortened intervention period and an on-the-record proceeding as promptly as the Commission's schedule will allow.

14. To facilitate this process, Ameren Missouri is serving this Application on all parties to the Company's last rate case, Case No. ER-2011-0028, and contacting the attorney for each such party by telephone to advise them of this filing. In addition, the Company has contacted Staff and OPC and offered to promptly provide any additional documents or other information related to this transaction that Staff or OPC would like to see.

15. Expediting this proceeding to meet the deadline contained in the Internal Revenue Code will benefit the public by reducing emissions from the Rush Island Plant over the next 10 years, and will benefit Ameren Missouri's customers by reducing operations and maintenance costs at the plant over that period.

#### IV. MOTION FOR WAIVER

16. Ameren Missouri does not anticipate, nor should it anticipate, that this matter will be a contested case. This Commission has held that an application regarding a transfer of assets pursuant to Section 393.190, RSMo is not a contested case.

Moreover, this is not a contested case pursuant to 536.010(2) because it does not involve a proceeding before an agency in which legal rights, duties or privileges of specific parties are required by law to be **determined after hearing**. (Emphasis added). Neither Section 393.190, nor Section 393.106, nor any other provision of law requires a hearing be held for these determinations. *In the Matter of the Application of The Empire District Electric Company for Authority to Sell and Transfer Part of its Works or System to the City of Monett, Missouri*, Case No. EO-2009-0159, Order Approving The Transfer Of Assets, Footnote 4, February 11, 2009.

17. Accordingly, Ameren Missouri was not required to file a 60-day Notice of Filing pursuant to 4 CSR 240-4.020(2). However, to the extent that a 60-day Notice of Filing could otherwise be required under 4 CSR 240-4.020(2), Ameren Missouri respectfully requests that such notice requirement be waived for good cause since expedited approval of this application is required as previously set forth herein. 4 CSR 240-4.020(2)(B).

**WHEREFORE**, Ameren Missouri respectfully requests that the Commission approve the sale of an initial amount of **\*\*\_\_\_\_\_\*\*** tons of coal in the coal pile at the Rush Island Plant to BP, continuing sale of coal for refinement during the 10 year term, and the lease of property at the Rush Island Plant pursuant to a program under which tax credits will be authorized, as more fully described herein.

Respectfully submitted,

*/s/ Thomas M. Byrne*

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**Thomas M. Byrne** MBN#33340  
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**ATTORNEYS FOR  
UNION ELECTRIC COMPANY  
d/b/a AMEREN MISSOURI**

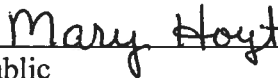
**VERIFICATION**

STATE OF MISSOURI     )  
                                      ) ss  
CITY OF ST. LOUIS     )

I, Mark C. Birk, being duly sworn according to law, state that I am authorized to make this verification on behalf of Union Electric Company d/b/a Ameren Missouri as Vice President of Power Operations and that the facts set forth above are true and correct to the best of my knowledge, information and belief.

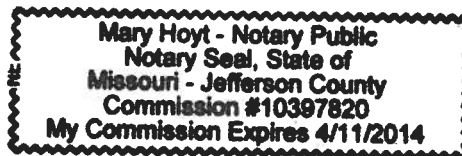
  
\_\_\_\_\_  
Mark C. Birk

Subscribed and sworn to before me this 9<sup>th</sup> day of November, 2011.

  
\_\_\_\_\_  
Notary Public

My commission expires:

4-11-2014





### **CERTIFICATE OF SERVICE**

I do hereby certify that a true and correct copy of the public version of the foregoing Application and concurrently filed testimony has been hand-delivered, e-mailed, or mailed, postage prepaid, this 9th day of November, 2011, to all counsel of record in Case No. ER-2011-0028. In addition, a true and correct copy of the Higly Confidential version of the foregoing Application and concurrently filed testimony has been e-mailed to the Commission Staff and the Office of the Public Counsel.

/s/ Thomas M. Byrne  
Thomas M. Byrne