

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 26th day of June, 2013.

In the Matter of the Application of Union Electric)
Company d/b/a Ameren Missouri for a Variance)
From the Provisions of Commission Rule 4 CSR)
240-14 to Meet Unregulated Competition in a)
Subdivision in Cole County, Missouri)

File No. EE-2013-0511

ORDER GRANTING VARIANCE

Issue Date: June 26, 2013

Effective Date: June 30, 2013

Syllabus: This order approves Union Electric Company d/b/a Ameren Missouri's ("Ameren Missouri") variance request from the Commission's Utility Promotional Practices Rule, 4 CSR 240-14. This order also approves Ameren Missouri's motion for expedited treatment.

Procedural History

On June 6, 2013¹, Ameren Missouri asked the Commission to grant it a variance from the Commission's Utility Promotional Practices Rule, 4 CSR 240-14, and from its own tariff. Ameren Missouri does so in an effort to offer the developer of a subdivision the installation of underground electric facilities at no cost to those developers.

Ameren Missouri states that unless it receives such a variance no later than June 30, it believes those developers will instead choose to be served by Three Rivers

¹ Calendar references are to 2013.

Electric Cooperative (“Three Rivers”). Thus, Ameren Missouri asks for expedited treatment and a ruling no later than June 30.

On June 6, the Commission notified Three Rivers of the application and of the motion for expedited treatment. On June 17, Staff filed its Recommendation. Staff recommended that the Commission approve the application.

Discussion

The application is within the Commission’s jurisdiction to decide.² Because no party objects to the application, no evidentiary hearing is required.³ Thus, the Commission deems the hearing waived,⁴ and bases its findings on the verified filings, and makes its conclusions as follows.

Jude and Mary Markway (“Developers”) have platted a new subdivision (“Markway Meadows”) in unincorporated Cole County, Missouri. It will consist of 44 single-family residences approximately 1,800 to 2,000 square feet in size, on lots averaging approximately 6,000 square feet in size.

Developers have asked Ameren Missouri to supply electric service to the new development via underground lines. Developers prefer Ameren Missouri to serve Markway Meadows because they and their immediate neighbors are currently Ameren Missouri customers.

² Commission Rule 4 CSR 240-14.010(2).

³ *State ex rel. Rex Deffenderfer Ent., Inc. v. Public Serv. Com’n*, 776 S.W.2d 494 (Mo. App. 1989).

⁴ Section 536.060, RSMo 2000.

Ameren Missouri's tariff requires it to charge Developer the costs of trenching and installation of the conduit system.⁵ The estimated cost of such trenching and installation of a conduit system is approximately \$26,000.

In contrast, Three Rivers has offered to serve the development with underground electric service without charging installation costs to Developers. Three Rivers is a rural electric cooperative not regulated by the Commission as to its rates, charges or terms and conditions of service.

Ameren Missouri believes Developers will choose Three Rivers to serve Markway Meadows unless the Commission grants Ameren Missouri a variance from the Commission's Promotional Practices Rule and its tariff. Ameren Missouri's tariff states that it may waive all or part of the charges associated with extensions of service to effectively compete with offers made to developers by unregulated competition after notifying the Commission and receiving an order granting the waiver for good cause shown.⁶

Commission Rule 4 CSR 240-14.010(2) allows the Commission to grant variances from the rules in that chapter for good cause shown. Ameren Missouri's tariff also allows it to waive charges otherwise required by its tariff for good cause shown. To constitute good cause, the reason or legal excuse given "must be real not imaginary, substantial not trifling, and reasonable not whimsical."⁷

The Commission finds good cause to waive the rule and to waive the tariff provision. Ameren Missouri already has in place an electric distribution line immediately adjacent to

⁵ MO P.S.C. Schedule No. 5, 3rd Revised Sheet No. 152, General Rules and Regulations Section III.K.3(a).

⁶ MO P.S.C. Schedule No. 5, Original Sheet No. 202.

⁷ *Belle State Bank v. Indus. Comm'n*, 547 S.W.2d 841, 846 (Mo. App. 1977). See also *Barclay White Co. v. Unemployment Compensation Bd.*, 50 A.2d 336, 339 (Pa. 1947) (to show good cause, reason given must be real, substantial, and reasonable).

Markway Meadows. Ameren Missouri currently serves residences in the immediate vicinity. The line and system in the area have sufficient capacity to serve Markway Meadows, and extending Ameren Missouri's service to Markway Meadows will promote more efficient use of its existing distribution system. In fact, Ameren Missouri estimates that serving Markway Meadows will result in incremental energy sales of 1124 MWh per year.

Based upon that estimate, Ameren Missouri believes serving Markway Meadows will result in a very small rate reduction for its customers. As a result, both Ameren Missouri and its customers should see an economic benefit from these waivers. Finally, the Commission notes that such a waiver would reflect the Commission's preference for locating all newly installed electrical corporation-owned residential subdivision distribution facilities underground.⁸

Commission Rule 4 CSR 240-2.080(14) allows the Commission to grant a motion for expedited treatment. The Commission finds that unless the Commission waives the above-mentioned rule and tariff no later than June 30, economic benefits to Ameren Missouri and its customers may not be realized due to Developers choosing Three Rivers to serve Markway Meadows instead of Ameren. Thus, harm will be avoided if the Commission acts expeditiously.

THE COMMISSION ORDERS THAT:

1. The request for a variance from Commission Rule 4 CSR 240-14 is granted.

⁸ Commission Rule 4 CSR 240-23.010(10).

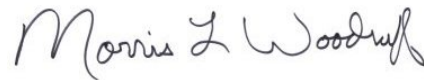
2. The request for a variance from Union Electric Company d/b/a Ameren Missouri's tariff provision MO P.S.C. Schedule No. 5, 5th Revised Sheet No. 152, Section III.K.3(a) is granted.

3. No ratemaking treatment of this transaction is being considered and any effects of this transaction will be analyzed within the context of Ameren Missouri's next general rate case.

4. This order shall become effective on June 30, 2013.

5. This file shall be closed on July 1, 2013.

BY THE COMMISSION

A handwritten signature in cursive script that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

R. Kenney, Chm., Jarrett, Stoll,
and W. Kenney, CC., concur.

Pridgin, Senior Regulatory Law Judge