

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

In the Matter of Union Electric Company d/b/a                     )  
Ameren Missouri for a Variance from the                     )       **File No. EE-2019-0272**  
Timing Requirements of 4 CSR 240.20.094(7)(K)                     )

**STAFF RECOMMENDATION**

**COMES NOW** the Staff of the Missouri Public Service Commission, by and through counsel, and respectfully states as follows:

1. On March 20, 2019, Union Electric company d/b/a Ameren Missouri (“Ameren”) requested that the Commission grant it a variance from the timing requirements of Commission Rule 4 CSR 240-20.094(7)(K). This rule requires a demand customer wanting to revoke its opt-out of utility demand-side programs to provide two to four months’ notice prior to the calendar year the customer becomes eligible to participate in the utility’s demand-side programs.

2. In support of its request for a variance from Commission Rule 4 CSR 240-20.094(7)(K), Ameren stated that several of its opted-out customers have indicated interest in participating in Ameren’s Missouri Energy Efficiency Investment Act (“MEEIA”) 2019 programs, which the Commission approved in December 2018. The demand response program season is May through September. As the rule is now, a current opt-out Ameren customer could not participate in MEEIA programming in 2019; the earliest that customer could participate is January 1, 2020. Ameren requests a variance to facilitate increased program response.

3. On March 20, 2019, Ameren also requested a variance from the 60-day requirement of Commission Rule 4 CSR 240-4.017(1), stating good cause exists

because it had no substantial communication with the Commission regarding the opt-out timing requirement in the 150 days preceding the filing.

4. On March 21, 2019, the Commission ordered Staff to file a recommendation no later than April 2, 2019.

5. Accompanying this pleading, and incorporated by reference, is Staff's Memorandum recommending Commission approval of Ameren's request for variances from the requirements of Commission Rules 4 CSR 240-20.094(7)(K) and 4 CSR 240-4.017(1).

**WHEREFORE**, Staff submits the accompanying Memorandum as directed by the Commission's Order issued March 21, 2019, recommending the Commission approve Ameren's requests for variances from the opt-out timing requirements of Commission Rule 4 CSR 240-20.094(7)(K) and the 60-day requirement of Commission Rule 4 CSR 240-4.017(1).

Respectfully submitted,

**/s/ Karen E. Bretz**

Karen E. Bretz  
Senior Counsel  
Missouri Bar No. 70632  
Attorney for the Staff of the  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102  
573-751-5472 (Voice)  
573-751-9285 (Fax)  
[Karen.Bretz@psc.mo.gov](mailto:Karen.Bretz@psc.mo.gov)

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to counsel of record this 1st day of April, 2019.

**/s/ Karen E. Bretz**

## MEMORANDUM

TO: Missouri Public Service Commission Official Case File  
Case File No. EE-2019-0272  
Union Electric Company d/b/a Ameren Missouri

FROM: Brad J. Fortson, Utility Regulatory Manager

/s/ Natelle Dietrich 4/1/2019  
Commission Staff Division / Date

/s/ Karen Bretz 4/1/2019  
Staff Counsel Department / Date

SUBJECT: Staff Recommendation For Approval Of Union Electric Company d/b/a Ameren Missouri's Request for Variance

DATE: April 1, 2019

On March 20, 2019, Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri") filed a *Notice of Case Filing, Request for Variance, and Request for Expedited Consideration* ("Request"). On March 21, 2019, the Commission ordered Staff to file a recommendation regarding the Request no later than April 2, 2019.

Ameren Missouri is requesting a variance of 4 CSR 240-4.017 and 4 CSR 240-20.094(7)(K).

4 CSR 240-4.017(1) states, in part, that:

Any person that intends to file a case shall file a notice with the secretary of the commission a minimum of sixty (60) days prior to filing such case.

4 CSR 240-4.017(D) further states:

A party may request a waiver of this section for good cause. Good cause for waiver may include, among other things, a verified declaration from the filing party that it has had no communication with the office of the commission within the prior one hundred fifty (150) days regarding any substantive issue likely to be in the case or that circumstances prevented filing the required notice and delaying the filing for sixty (60) days would cause harm.

Ameren Missouri provided in its Request, an affidavit attached as Exhibit A affirming Ameren Missouri has had no communications with the office of the Commission regarding any

**APPENDIX A**

substantive issue likely to be in this case during the preceding 150 days, and therefore has established good cause for a waiver from the 60-day requirement of 4 CSR 240-4.017(1). Ameren Missouri notes that while it's MEEIA 2019-21 filing did come before the Commission in the form of an on-the-record presentation, the specific matter of waiving revocation of opt-out requirements was neither raised nor discussed during the 150 days preceding this filing.

4 CSR 240-20.094(7)(K) states:

Revocation. A customer may revoke an opt-out by providing written notice to the utility and commission two to four (2 – 4) months in advance of the calendar year for which it will become eligible for the utility's demand-side programs' costs and benefits. Any customer revoking an opt-out to participate in demand-side programs will be required to remain in the demand-side program(s) for the number of years over which the cost of that demand-side program(s) is being recovered, or until the cost of their participation in the demand-side program(s) has been recovered.

To comply with 4 CSR 240-20.094(7)(K), any customer who has previously opted-out of Ameren Missouri's MEEIA programs that wishes to opt back in must provide written notice to the utility and Commission between September 1 and October 31 to be eligible to participate in Ameren Missouri's MEEIA programs the following January 1. In short, the earliest date an opt-out customer could be eligible to opt back in to Ameren Missouri's MEEIA programs would be January 1, 2020. However, the demand response program season is May through September.

As Ameren Missouri states in its Request, demand response programs were anticipated in the Ameren Missouri MEEIA Cycle 3 filing, however the final MEEIA Cycle 3 plan was developed through settlement between many of the parties to that filing and was not approved by the Commission until December, 2018. Since the approval of MEEIA Cycle 3, Ameren Missouri has increased the publicity of its programs and has been approached by opt-out customers who now want to participate in the demand response program. Without a variance from 4 CSR 240-20.094(7)(K), these opt-out customers will not be able to participate in the entirety of the MEEIA Cycle 3 program year 1 demand response program season.

Additionally, with a variance from 4 CSR 240-20.094(7)(K), customers who choose to opt back in to Ameren Missouri's MEEIA Cycle 3 programs would once again be held to the requirements of 4 CSR 240-20.094(7)(L), which states:

A customer who participates in demand-side programs initiated after August 1, 2009, shall be required to participate in demand-side programs funding for a period of three (3) years following the last date when the customer received a demand-side incentive or a service. Participation shall be determined based on premise location regardless of the ownership of the premise.

Ameren Missouri specifically requests a variance of 4 CSR 240-20.094(7)(K), and instead asks that customers who revoke their opt-out status be held to the following:

A customer who wishes to participate in Ameren Missouri's demand response programming may revoke its opt-out from the costs and benefits of the Company's demand-side programs by providing written notice to the utility and the manager of the Energy Resources Department of the Commission. If a customer only provides notice of its revocation of opt-out to Ameren Missouri, the Company shall forward a copy of the written notification to the manager of the Energy Resources Department of the Commission. A customer who participates in demand-side programs, including demand response, shall be required to participate in demand-side programs funding for a period of three (3) years following the last date the customer received a demand-side incentive or a service. Participation shall be determined based on the premise location regardless of the ownership of the premise.

#### **STAFF RECOMMENDATION**

Staff has reviewed Ameren Missouri's Request and recommends the Commission approve Ameren Missouri's requested variances of 4 CSR 240-4.017 and 4 CSR 240-20.094(7)(K) as filed on March 20, 2019, to be effective by April 5, 2019.

Staff has verified that Ameren Missouri is current on its annual report filings and is not delinquent on any assessment. Staff is not aware of any other matter before the Commission that affects or is affected by this filing.

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

In the Matter of Union Electric Company d/b/a       )  
Ameren Missouri for a Variance from the       )  
Timing Requirements of 4 CSR 240.20.094(7)(K)    )

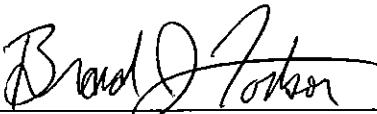
**File No. EE-2019-0272**

**AFFIDAVIT OF BRAD J. FORTSON**

State of Missouri       )  
                                      ) ss  
County of Cole        )

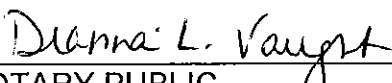
**COMES NOW** Brad J. Fortson, and on his oath declares that he is of sound mind and lawful age; that he contributed to the attached *Staff Recommendation in Memorandum form*; and that the same is true and correct according to his best knowledge and belief.

Further the Affiant sayeth not.

  
\_\_\_\_\_  
Brad J. Fortson

**JURAT**

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 1st day of April, 2018.

  
\_\_\_\_\_  
NOTARY PUBLIC

