

**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)
Authorization to Enter into a Contract with a)
Third-Party for Utilization of Fiber Optic Capacity)
Not Currently Utilized for Electric Operations)
File No. EM-2021-0309

STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”), through counsel, and for its *Staff Recommendation* states:

1. On June 11, 2021, Union Electric Company d/b/a Ameren Missouri (“Ameren”) filed its *Verified Application to Lease Fiber Capacity* (“Application”) seeking Commission authority to lease fiber optic capacity to MCC Network Services, LLC (“MCC”), an internet services provider. The proposed lease is attached to Ameren’s Application.

2. On June 14, 2021, the Commission ordered Staff to file a recommendation regarding Ameren’s application, or an alternative pleading, by July 14, 2021. Staff’s recommendation is currently due September 22, 2021.

3. Section 393.190.1, RSMo requires a utility under the Commission’s jurisdiction to receive Commission approval before leasing part of its system which is used in service to the public. The Commission may not withhold approval of the lease unless it is detrimental to the public interest.¹

¹ *Fee Fee Trunk Sewer Co. v. Litz*, 596 S.W.2d 466, 468 (Mo. App., W.D. 1980) (citing *State ex rel. City of St. Louis v. Public Service Commission of Missouri*, 73 S.W.2d 393, 400 (Mo banc 1934).

4. Ameren plans to reconductor an approximately 1.67 mile section of the Sioux to Meppen transmission line where the line crosses the Mississippi River between Missouri and Illinois.² As part of this project, Ameren plans to install an optical ground wire (“OPGW”) cable. Part of this OPGW cable will be incorporated into Ameren’s communications infrastructure and utilized in its provision of electric service.

5. In its Application, Ameren requests Commission approval to lease to MCC 12 strands of this OPGW cable that will not be used in the provision of electric service. These 12 strands are not activated or “lit” – they are dark fibers. The lease term is 20 years, which may be extended by mutual agreement. ** [REDACTED]

[REDACTED].³ ** Ameren will record lease revenues to FERC Account 454, and they will offset Ameren’s rate case revenue requirement.⁴

6. According to the lease’s terms, if it requires the leased cable for its own purpose as grid technologies grow and advance, Ameren may cancel the lease early with 780 days’ notice and no financial liability. MCC may cancel the lease early by paying a termination fee of 100% of all remaining contract lease payments and 75% of all remaining contract maintenance payments.⁵

7. Ameren represents that this lease will have no impact on its operations or interfere with its ability to provide safe and adequate service to its customers. Ameren states that it can maintain signal integrity with MCC’s co-use of the OPGW cable.⁶

² *Verified Application to Lease Fiber Capacity*, ¶3 (June 11, 2021).

³ *Dark Fiber Lease Agreement By and Between the Lessor and MCC Network Services, LLC*, ¶4.1, attached as Exhibit A to Ameren’s Application.

⁴ *Verified Application to Lease Fiber Capacity*, ¶4 (June 11, 2021).

⁵ *Id.* at ¶3.

⁶ *Id.* at ¶5.

8. In the attached Staff memorandum, marked as Exhibit A, Staff recommends the Commission approve the lease, with conditions. Staff finds the lease is not detrimental to the public interest, because (a) the proposed OPGW line will have excess capacity, (b) Ameren may cancel the lease early with no financial liability, and (c) MCC's use of the line for internet services will not interfere with Ameren's use for utility purposes. Staff agrees with Ameren's proposed accounting treatment of the lease and maintenance payments it receives from MCC.

9. Since the filing of the Application, Staff became aware that Ameren initiated a research and development ("R&D") project at the Sioux Energy Center. Staff requests that if the Commission approves this lease, it require Ameren to notify the Commission if it will utilize this OPGW cable in the R&D project. Staff further recommends that the Commission order Ameren to notify the Commission if it intends to terminate or modify the lease. And lastly, Staff requests the Commission note in its order that it makes no ratemaking determination regarding this lease.

WHEREFORE, Staff recommends that the Commission issue an order approving Ameren's lease of 12 strands of OPGW cable to MCC, with conditions.

Respectfully submitted,

/s/ Karen E. Bretz

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CERTIFICATE OF SERVICE

I certify that copies of the foregoing have been emailed to all parties and/or counsel of record on this 22nd day of September, 2021.

/s/ Karen E. Bretz

MEMORANDUM

TO: Missouri Public Service Commission Official Case File
Case No. EM-2021-0309

FROM: Kimberly K. Bolin, Auditing Department
Alan J. Bax, Engineering Analysis Department

/s/ Alan J. Bax 09/22/2021 /s/ Karen Bretz 09/22/2021
Engr. Analysis Dept. / Date Staff Counsel's Office / Date

SUBJECT: Staff Memorandum Recommending Approval of Request to Authorize
Entering into Contract with Third Party For Fiber Optic Capacity

DATE: September 22, 2021

STAFF RECOMMENDATION

Staff of the Missouri Public Service Commission (“Staff”) recommends that the Missouri Public Service Commission (“Commission”) approve the Application of the Union Electric Company d/b/a Ameren Missouri (“Ameren Missouri”) that requests authorization to enter into a contract with a third-party for leasing available capacity on a fiber optic conductor bundle not currently used for electric operations, concluding that the Application is not detrimental to the public interest pursuant to Section 393.190.1 RSMo 2020 and 20 CSR 4240-10.105 (1) (D). The Application meets the filing requirements contained in 20 CSR 4240-2.060 and 20 CSR 4240-10.105.

OVERVIEW

On March 23, 2021, Ameren Missouri filed a 60 day notification of its intention to file said Application per 20 CSR 4240 4.017 (1). On June 11, 2021, Ameren Missouri filed its Application, which included its plan to lease fiber optic strands contained within an Optical Ground Wire Cable (“OPGW”) that will be installed, maintained, and operated for Ameren Missouri’s provision of electric service to MCC Network Services, LLC

(“MCC”). A copy of the Dark Fiber Lease Agreement (“Lease Agreement”) between Ameren Missouri and MCC was included in the Application as required by 20 CSR 4240-10.105 (1) (B). Ameren Missouri contends that leasing such available capacity in exchange for fees received will result in revenues that will be applied to its revenue requirement and reduce customer rates.

On June 14, 2021, the Commission issued an *Order Directing Filing* that directed Staff to file a recommendation or alternative pleading no later than July 14, 2021. On July 14, 2021, Staff filed a request for an extension in which to file its recommendation until September 13, 2021, a request that the Commission approved in its *Order Granting Motion for Extension* filed on July 14, 2021.

On September 10, 2021, Staff requested a second extension, until September 22, 2021, in which to file a recommendation. The Commission granted this request in its *Order Granting Second Motion for Extension* filed September 13, 2021.

Ameren Missouri is an electrical corporation subject to the jurisdiction of the Commission as specified, in part, by Chapters 386 and 393, RSMo 2020. For the purposes of this case, Ameren Missouri is subject to the jurisdiction of the Commission under Section 393.190.1 RSMo 2020. Ameren Missouri is current on its filing of annual reports and payments of its assessment dues. Staff is currently not aware of any unsatisfied judgments or decisions against Ameren Missouri in any state or federal agency or court involving customer service or rates within the last three years that would have bearing on the immediate Case.

DISCUSSION

As part of its Intelligrid initiative, Ameren Missouri is planning a reconductoring project that involves removal and replacement of an approximately 1.7 mile span of its Sioux to Meppen transmission line that is routed across the Mississippi River near its Sioux Energy Center. As a part of this reconductoring project, Ameren Missouri plans on installing an OPGW cable. A specification sheet describing this OPGW cable, along with a cross-sectional drawing, was included in Ameren Missouri's Response to Staff Data Request No. 1. OPGW cable is designed to provide a means of shielding the transmission line from the effects associated with lightning strikes, as it replaces the typical static wire utilized in transmission line installations. Moreover, OPGW cable has up to 144 fiber optic strands that can be used in providing a telecommunication path that can be utilized by an electric utility and also enable "third-party" communication. Ameren Missouri indicates it plans to use the OPGW cable in operating its Supervisory Control and Data Acquisition ("SCADA") system, as well as enabling/enhancing the operation of such devices as line differential relays and synchrophasors. Ameren Missouri reports it plans to install an OPGW cable with 96 strands, separated into four, 24 stranded conductor bundles. These sensitive, optical fibers can also be used by third-party communication providers in offering such services as internet, for example. Ameren Missouri states that its current utilization plans of the OPGW cable leaves excess capacity available on these fiber strands. Therefore, Ameren Missouri is seeking to lease a portion of the OPGW cable to MCC.

As required by 20 CSR 4240-10.105 (1) (B), a Lease Agreement was included with the Application. The periodicity of said Lease Agreement is twenty (20) years, with provisions to extend if desired. The property to be leased is twelve (12) fiber strands that

are “unlit” (i.e. not activated) for use in Ameren Missouri’s provision of electric service and are thus labeled as “dark fiber strands”, with clearly defined access points. Access points refer to any service point locations, such as splices or other points of demarcations (such as in cabinets and handholds) in which MCC will have operational control. Other than these access points, as identified by Ameren Missouri, MCC will be unable to utilize and/or effect, any other portion of Ameren Missouri’s facilities. Therefore, as indicated in the Response to Staff Data Request No. 2, signal separation, isolation, and integrity is achieved and can be maintained between these strands used in the services to be provided by MCC from those strands that are used in Ameren Missouri’s electrical operations. In other words, Ameren Missouri’s lease of the excess fiber capacity will not pose a risk to its electrical operations.

The Lease Agreement details the annual payments that Ameren Missouri will receive over the period of the lease. Revenues from these annual payments will offset Ameren Missouri’s revenue requirement in each of its electric rate cases. The lease revenues will be recorded in FERC Account 454 and a normal annualized level of the revenues will be included in the revenue requirement. Ameren Missouri claims, aside from a rare trouble response, that there is no routine maintenance or cost for operations specific to the leased fiber route.¹ Ameren Missouri asserts this project is eligible for Plant-In-Service Accounting (PISA) treatment.

The installation of the OPGW cable is for the purpose for enhancing/enabling electrical operations. While Ameren Missouri contends that it currently has available

¹ Ameren Missouri’s Response to Staff Data Request No. 15

capacity after accounting for the portion used in electrical operations, should the need or opportunity arise in the future that additional functionality can be achieved by utilizing this portion that is leased, the Lease Agreement contains a procedure for Ameren Missouri to terminate the Lease Agreement. Also, should MCC desire to end the Lease Agreement, it will be required to continue compensating Ameren Missouri per the terms of the Lease Agreement.

Since the filing of this Application, Staff has become aware of a Research and Development Project (“R&D Project”) that Ameren Missouri has initiated at the Sioux Energy Center. It is possible that the installation of the OPGW cable could benefit and/or enable future utilization of the R&D Project. Staff would therefore recommend that the Commission condition its approval of the Application ordering Ameren Missouri to notify the Commission if Ameren Missouri intends to make use of the OPGW cable in its operation of the R&D Project.

CONCLUSION

Staff recommends that the Commission authorize Ameren Missouri to enter into a Lease Agreement with MCC as sought in the Application, concluding that the request is not detrimental to the public interest as required by 20 CSR 4240-10.105 (1) (D). The Application meets the requirements specified in 393.190.1 RSMo 2020 as well as those included in 20 CSR 4240-2.060 and 20 CSR 4240-10.105. Staff has reviewed and agrees with Ameren Missouri’s proposed methods of accounting for the revenues and expenses in conjunction with the terms of the Lease Program.

In recommending approval of this request, Staff recommends the Commission note that no ratemaking determinations are being made as a part of this order relative to

Ameren Missouri leasing a portion of its property over the period of the lease transaction.

Moreover, if Ameren Missouri decides to suspend, terminate or otherwise modify the Lease Agreement, the Staff recommends the Commission order Ameren Missouri to file a notice with the Commission as soon as practical upon such a decision. Such notice should include a detailed explanation as to the purpose of termination the Lease Agreement.

In addition, the Staff also recommends ordering Ameren Missouri to notify the Commission if Ameren Missouri identifies using this OPGW cable in its operation of its R&D Project located at the Sioux Energy Center.

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Electric Company d/b/a Ameren Missouri for) File No. EM-2021-0309
Authorization to Enter into a Contract With a)
Third-Party for Utilization of Fiber Optic)
Capacity Not Currently Utilized for Electric)
Operation)

AFFIDAVIT OF ALAN J. BAX

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

COMES NOW, Alan J. Bax, 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.

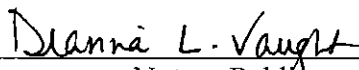
Further the Affiant sayeth not.



Alan J. Bax

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 22nd day of September, 2021.

DIANNA L. VAUGHT
Notary Public - Notary Seal
State of Missouri
Commissioned for Cole County
My Commission Expires: July 18, 2023
Commission Number: 15207377



Notary Public

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AFFIDAVIT OF KIMBERLY K. BOLIN

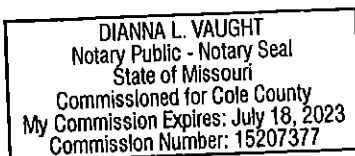
STATE OF MISSOURI)
) ss
COUNTY OF COLE)

COMES NOW, Kimberly K. Bolin, and on her oath declares that she is of sound mind and lawful age; that she contributed to the attached *Staff Recommendation in Memorandum form*; and that the same is true and correct according to her best knowledge and belief.

Further the Affiant sayeth not.

Kimberly K. Bolin
Kimberly K. Bolin

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 22nd day of September, 2021.



Dianna L. Vaught
Notary Public