

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

In the Matter of Union Electric Company	)	
d/b/a Ameren Missouri's LED Street	)	<b><u>Case No. ET-2016-0152</u></b>
Lighting Update and Tariff Filing	)	Tariff No. YE-2016-0159
	)	

**STAFF'S RESPONSE TO THE OFFICE OF PUBLIC COUNSEL'S  
MOTION TO REJECT TARIFF SHEETS**

**COMES NOW** the Staff of the Missouri Public Service Commission ("Staff"), by and through the undersigned counsel, and, as the Missouri Public Service Commission ("Commission") ordered on this fourth day of January, 2016, files on this fourth day of January, 2016, *Staff's Response to the Office of the Public Counsel's Motion to Reject Tariff Sheets* as follows:

**Procedural Background**

1. On December 17, 2015, Ameren Missouri filed its *LED Lighting Update Filing – LED Street Area Lighting Report* pursuant to the terms of the *Nonunanimous Stipulation and Agreement Regarding MEEIA Low Income Exemption and LED Streetlighting Issues* filed in File No. ER-2014-0258, and also filed its *Revised Tariff Sheets*<sup>1</sup> seeking Commission approval for them to go into effect on January 16, 2016. The Commission assigned the tariff sheets to Tariff Tracking No. YE-2016-0159.

2. On December 17, 2015, the Commission issued its *Notice of Tariff Filing and Order Establishing Time to File Recommendations*, instructing Staff to file a recommendation regarding Ameren Missouri's LED Lighting Update Report and associated tariff sheets by no later than December 31, 2015.

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<sup>1</sup> Ameren Missouri supplemented its tariff sheet filing with its *Substitute Tariff* revisions, filed December 23, 2015.

3. On December 31, 2015, the Office of Public Counsel (“OPC”) filed its *Motion to Reject Tariffs* alleging that the establishment of a new LED lighting service rate is single issue ratemaking and therefore impermissible outside of a general rate case proceeding. Secondly, OPC argues that Ameren Missouri remains obligated to submit annual LED reports, pursuant to the Commission’s File No. EO-2013-0367 *Order Approving Tariff* (Oct. 23, 2013).

4. Later on December 31, 2015, Staff filed *Staff’s Recommendation for Approval of Tariff Sheet*, wherein it provided its rationale for the Commission to approve the submitted tariff sheets to establish new more cost-efficient LED street lighting service to replace higher cost traditional lighting services as directed by the Commission in its *Report and Order*, issued in Case No. ER-2011-0028 (EFIS No. 594).

5. On January 4, 2016, the Commission issued its *Order Directing Filing* by which it directed Staff to respond to OPC’s legal arguments and any precedent for approval or rejection of similar tariff filings.

### **Response to the Office of Public Counsel’s Motion**

6. Tariff changes in compliance with Commission rules or a *Report and Order* in a rate case may be made without a hearing since the necessary due process procedures and consideration of relevant factors occurred during the rulemaking or the rate case proceeding.<sup>2</sup> Ameren Missouri’s filing of revised tariff sheets is pursuant to the Commission’s *Report and Order* from Ameren Missouri’s 2011 rate case, directing the utility to file an LED street lighting tariff, or provide a status report indicating when it

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<sup>2</sup> See *State ex rel. Missouri Gas Energy v. Public Service Comm’n*, 210 S.W.3d 330 (Mo. App., W.D. 2006); See also *Kansas City Power & Light Co. v. Midwest Energy Consumers Group*, 425 S.W.3d 142 (Mo.App. W.D. 2014), *reh’g and/or transfer denied* (Mar. 4, 2014), *transfer denied* (Apr. 29, 2014).

would file such a tariff.<sup>3</sup> The Commission further instructed Ameren Missouri to only file an LED tariff when “it is appropriate to do so[,]” explaining Ameren Missouri may withhold such a filing if further study revealed LED street lighting would not benefit its customers.<sup>4</sup> Clear from the Commission’s language is an understanding that an LED tariff may be filed independent of a rate case, and an instruction that no such tariff should be filed if studies indicated that LED street lighting would not benefit its customers. As explained in Ameren Missouri’s December 2015 *Light Emitting Diode (LED) Street and Outdoor Area Lighting Report*, LED street lighting is now cost effective and capable of providing service at a lower monthly rate than the current non-LED street lights. The submission of the revised tariff sheets meets the standards set by the Commission for the submission of LED street light tariff set forth in File No. ER-2011-0028.

7. Pursuant to the Commission’s *Order Directing Filing*, Staff has identified several instances where the Commission approved revised tariff sheets under similar circumstances. In File No. EO-2013-0367, the Commission approved revised tariff sheets filed by Ameren Missouri, which permits customers to receive unmetered LED street lighting rates as an energy-only option, pursuant to the same authority from which it files its current revised tariff sheets, appended hereto as Attachment 1. In File No. ER-2014-0258, in its *Order Approving Stipulation And Agreement Regarding Supplemental Service Issues*, the Commission, pursuant to a Stipulation and Agreement, ordered Ameren Missouri to submit a Standby Tariff by December 31,

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<sup>3</sup> ER-2011-0028, EFIS No. 594, *Report and Order*, Pg. 94 (July 13, 2011).

<sup>4</sup> *Id.*

2015, to apply prospectively to all new customer generators.<sup>5</sup> In Tariff Tracking No. JE-2011-0227, revised tariff sheets were filed to permit customers or businesses to install solar electric systems on their premises and secured Solar Renewable Energy Credit to comply the Missouri's renewable energy standard. Due to the constraint of time imposed by the Commission order, this list may be concise, however the cases cited clearly illustrate that the Commission has previously approved revised tariff sheets establishing LED street light service and has approved tariff sheets arising from a Stipulation and Agreement from a prior rate case.

8. The OPC's alleges that the revised tariff sheets unlawfully change rates as based on single issue ratemaking. OPC's argument should be rejected because the revised tariff sheets do not propose adjustment to any existing rate. "Single issue ratemaking occurs *when rates are adjusted* on the basis of a single factor, without consideration of all relevant factors."<sup>6</sup> Attachment 2, appended hereto, identifies the rates for High Pressure Sodium and Mercury Vapor lighting under Ameren Missouri's existing tariff. Attachment 3, appended hereto, identifies the proposed rates from the revised tariff sheets for High Pressure Sodium and Mercury Vapor lighting: the same rates for service currently available under the existing tariff for non-LED street lighting. The Commission should dismiss OPC's single issue ratemaking argument on the basis that rates for existing services will remain unchanged should the Commission accept the revised tariff sheets.

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<sup>5</sup> ER-2014-0258, EFIS No. 462, *Order Approving Stipulation And Agreement Regarding Supplemental Service Issues* (Mar. 9, 2015). See also EA-2005-0180, EFIS No. 89, *Order Approving Compliance Tariffs and Closing Case* (May 20, 2005), In File No. EA-2005-0180, the Commission issued its *Order Approving Compliance Tariffs and Closing Case*, enacting tariff sheets that were found complaint with a Commission Order to implement Large Transmission Service (LTS) Tariff described in the Stipulation and Agreement filed on February 24, 2005.

<sup>6</sup> *State ex rel. Pub. Counsel v. Pub. Serv. Comm'n of State*, 397 S.W.3d 441, 448 (Mo.App. W.D. 2013) (emphasis added).

9. The Commission has approved tariff changes in the past incorporating new products or services without a hearing.<sup>7</sup> In the case at issue, a new service is being offered apart from services provided by existing technologies contemplated in Ameren Missouri's current tariff. OPC argues that Ameren Missouri's LED street light conversion plan utilization of existing infrastructure is proof that the LED street light service is "not a new service."<sup>8</sup> To the contrary, Ameren Missouri seeks to utilize new technology on existing infrastructure; a strategy aimed at cost savings. Much like Laclede Gas's CNG Tariff, which set rates for compressed natural gas for vehicles, Ameren Missouri's revised tariff sheets identifies a new technology at a separate rate, distinct from service currently available under its present tariff. As the revised tariffs constitute the creation of a new service, LED Street Lighting

10. Staff and OPC are in agreement regarding Ameren Missouri's request that it be relieved from further LED annual reports. Staff reasserts its initial argument, recommending that the Commission order Ameren Missouri to continue to provide Staff with annual updates to its economic analysis of LED street lights. However, starting in 2016, this report need only to contain: 1) an analysis of the cost-effectiveness of converting the remaining 5(M) Company-Owned Street Lighting to LED and Ameren Missouri's intentions to do so; and 2) a status report on the progress Ameren Missouri has made in conversion of its enclosed and open bottom light types to LED. The status report shall contain a detailed description of the following information with annual incremental and cumulative data whenever appropriate: 1) the number of fixtures

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<sup>7</sup> See **Third Revised Tariff Sheet No. 11**, Laclede Gas Company, effective October 18, 1995 (the Commission approves tariff for Laclede Gas to establish the terms, conditions and rates for sales of compressed natural gas for vehicle fuel use).

<sup>8</sup> ET-2016-0152, EFIS No. 11, *Public Counsel's Motion to Reject Tariff Sheets*, p. 4 (Dec. 21 2015).

replaced with LEDs; 2) any maintenance related issues with the LED replacements; 3) all costs associated with the LED conversion; 4) total revenue of the 5(M) Company-Owned Street Lighting rate class ; 5) kilowatt-hour consumption of the 5(M) Company-Owned Street Lighting rate class ; and 6) number of customers making early conversion requests.

11. For the foregoing reasons, Staff opposes the OPC's motion to reject Ameren Missouri tariff sheets and reaffirms its recommendation that the Commission approve and implement these tariff sheets because they effectuate the Commission's intent stated in a prior *Order* to implement LED street lighting, the rates will prove to be a cost savings to customers, and the tariff sheets will work to implement the use of more energy efficient materials.

**WHEREFORE**, the Staff submits this response for the Commission's consideration and reaffirms its request the Commission approve of the revised tariff sheets for the reasons set forth in its initial filing.

Respectfully submitted,

**/s/ William Hampton Williams II**

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Missouri Bar No. 65633  
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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed with first-class postage, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 4<sup>th</sup> day of January, 2016.

**/s/ William Hampton Williams II**

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held at its office  
in Jefferson City on the 23<sup>rd</sup>  
day of October, 2013.

In the Matter of Union Electric Company d/b/a	)	
Ameren Missouri's Request to Extend Date to	)	<b><u>File No. EO-2013-0367</u></b>
Provide LED Street Lighting Information	)	Tariff No. YE-2014-0152

**ORDER APPROVING TARIFF**

Issue Date: October 23, 2013

Effective Date: October 30, 2013

On September 30, 2013, Union Electric Company, d/b/a Ameren Missouri issued a tariff that will permit customers to receive unmetered LED street lighting rates as an energy-only option. That means customers who choose to install customer-owned LED street lights will be able to do so. Ameren Missouri does not intend to install company-owned LED street lights at this time.

The background of this tariff filing goes back to two recent Ameren Missouri rate cases. In ER-2011-0028 and ER-2012-0166, the Commission ordered Ameren Missouri to study the energy conservation effect of implementation of LED street lighting and to eventually file a tariff to permit the use of such lighting. On July 31, 2013, Ameren Missouri filed a report regarding its study entitled *Light Emitting Diode (LED) Street and Area Lighting Report*. Ameren Missouri's tariff currently before the Commission is one of the results of that study.

On October 1, the Commission issued an order directing its Staff to file a recommendation regarding Ameren Missouri's tariff by October 18. That order also



required any other party wishing to file a recommendation regarding that tariff do so no later than October 18. Staff filed its recommendation to approve the tariff on October 18. No other party has filed a recommendation regarding the tariff.

Staff's recommendation supports Ameren Missouri's decision to make this tariff filing, agrees with the calculation of the energy-only rates established in the tariff, and agrees with the company's decision to continue its evaluation of LED street and area economics for its company-owned street and outdoor lighting service. Staff recommends the Commission approve the tariff to go into effect on October 30.

Staff also recommends the Commission order Ameren Missouri to continue to monitor the various critical assumptions it identified in its July 31, 2013, *Light Emitting Diode (LED) Street and Area Lighting Report*, to update its analysis annually, and to report the results of its annual update to Staff.

Based on Staff's recommendation, the Commission will approve Ameren Missouri's tariff to be effective on October 30, 2013. The Commission will also order Ameren Missouri to analyze and report its findings as requested by Staff.

**THE COMMISSION ORDERS THAT:**

1. Ameren Missouri's Tariff No. YE-2014-0152, is approved to become effective on October 30, 2013. The specific tariff sheets approved are:

**MO. P.S.C. SCHEDULE No. 5**

- 1<sup>st</sup> Revised Sheet No. 59, Cancelling Original Sheet No. 59
- 1<sup>st</sup> Revised Sheet No. 59.1, Cancelling Original Sheet No. 59.1

2. Union Electric Company d/b/a Ameren Missouri shall continue to monitor the various critical assumptions identified through the analysis in its July 31, 2013 *Light*

*Emitting Diode (LED) Street and Area Lighting Report*, to update its analysis annually, and to report the results of its annual update to Staff.

3. This order shall become effective on October 30, 2013.
4. This file shall close on October 31, 2013.

**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

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

Woodruff, Chief Regulatory Law Judge

**UNION ELECTRIC COMPANY**

**ELECTRIC SERVICE**

MO.P.S.C. SCHEDULE NO. 6 1st Revised SHEET NO. 58  
 CANCELLING MO.P.S.C. SCHEDULE NO. 6 Original SHEET NO. 58

APPLYING TO MISSOURI SERVICE AREA

**SERVICE CLASSIFICATION NO. 5 (M)**  
**STREET AND OUTDOOR AREA LIGHTING - COMPANY-OWNED**

**\* RATE PER UNIT PER MONTH LAMP AND FIXTURE**

A. Standard horizontal burning, enclosed luminaire on existing wood pole:

<u>High Pressure Sodium</u>		<u>Mercury Vapor (1)</u>	
<u>Lumens</u>	<u>Rate</u>	<u>Lumens</u>	<u>Rate</u>
9,500	\$12.41	6,800	\$12.41
25,500	\$17.93	20,000	\$17.93
50,000	\$31.97	54,000	\$31.97
		108,000	\$63.95

B. Standard side mounted, hood with open bottom glassware on existing wood pole:

<u>High Pressure Sodium</u>		<u>Mercury Vapor (1)</u>	
<u>Lumens</u>	<u>Rate</u>	<u>Lumens</u>	<u>Rate</u>
5,800	\$10.05	3,300	\$10.05
9,500	\$10.98	6,800	\$10.98

C. Standard post-top luminaire including standard 17-foot post:

<u>High Pressure Sodium</u>		<u>Mercury Vapor (1)</u>	
<u>Lumens</u>	<u>Rate</u>	<u>Lumens</u>	<u>Rate</u>
9,500	\$22.99	3,300	\$21.73
		6,800	\$22.99

D. Pole-mounted, direction flood luminaire; limited to installations accessible to Company basket truck:

<u>High Pressure Sodium</u>		<u>Metal Halide</u>		<u>Mercury Vapor (1)</u>	
<u>Lumens</u>	<u>Rate</u>	<u>Lumens</u>	<u>Rate</u>	<u>Lumens</u>	<u>Rate</u>
25,500	\$22.76	34,000	\$22.76	20,000	\$22.76
50,000	\$36.00	100,000	\$71.96	54,000	\$36.00

(1) Mercury Vapor lamps and fixtures are limited to customers served under contracts initiated prior to September 27, 1988. Company will continue to maintain these lamps and fixtures so long as parts are economically available.

\*Indicates Change.

FILED  
 Missouri Public  
 Service Commission  
 ER-2014-0258; YE-2015-0325

Issued pursuant to the Order of the Mo.P.S.C. in Case No. ER-2014-0258.

DATE OF ISSUE May 6, 2015 DATE EFFECTIVE May 30, 2015 ~~June 5, 2015~~

ISSUED BY Michael Moehn President St. Louis, Missouri  
 NAME OF OFFICER TITLE ADDRESS

**UNION ELECTRIC COMPANY**

**ELECTRIC SERVICE**

MO.P.S.C. SCHEDULE NO. 6 2nd Revised SHEET NO. 58  
CANCELLING MO.P.S.C. SCHEDULE NO. 6 1st Revised SHEET NO. 58

APPLYING TO MISSOURI SERVICE AREA

**SERVICE CLASSIFICATION NO. 5 (M)**  
**STREET AND OUTDOOR AREA LIGHTING - COMPANY-OWNED**

**RATE PER UNIT PER MONTH LAMP AND FIXTURE**

\* The Light Emitting Diode (LED) offerings under sections A. and B. below will be made available to customers beginning on or about April 1, 2016.

A. LED Standard horizontal enclosed luminaire on existing wood pole:

<u>Watts</u>	<u>Rate</u>
40-50	\$11.35
90-110	\$16.07
180-220	\$29.73

B. LED Standard side mounted, open bottom luminaire on existing wood pole:

<u>Watts</u>	<u>Rate</u>
40-50	\$9.92

\* The High Pressure Sodium and Mercury Vapor offerings under sections C. and D. below will only be available for new installations through on or about March 31, 2016. After such time, Company will replace these existing fixtures, upon failure, with an LED fixture under sections A. and B.

C. Standard horizontal burning, enclosed luminaire on existing wood pole:

<u>High Pressure Sodium</u>		<u>Mercury Vapor</u>	
<u>Lumens</u>	<u>Rate</u>	<u>Lumens</u>	<u>Rate</u>
9,500	\$12.41	6,800	\$12.41
25,500	\$17.93	20,000	\$17.93
50,000	\$31.97	54,000	\$31.97

D. Standard side mounted, hood with open bottom glassware on existing wood pole:

<u>High Pressure Sodium</u>		<u>Mercury Vapor</u>	
<u>Lumens</u>	<u>Rate</u>	<u>Lumens</u>	<u>Rate</u>
5,800	\$10.05	3,300	\$10.05
9,500	\$10.98	6,800	\$10.98

E. Standard post-top luminaire including standard 17-foot post:

<u>High Pressure Sodium</u>		<u>Mercury Vapor (1)</u>	
<u>Lumens</u>	<u>Rate</u>	<u>Lumens</u>	<u>Rate</u>
9,500	\$22.99	3,300	\$21.73
		6,800	\$22.99

\*Indicates Addition

DATE OF ISSUE December 17, 2015 DATE EFFECTIVE January 16, 2016  
ISSUED BY Michael Moehn President St. Louis, Missouri  
NAME OF OFFICER TITLE ADDRESS