

**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 Approval of a Tariff Setting a Rate for)
Electric Vehicle Charging Stations.)

File No. ET-2016-0246

RESPONSE IN OPPOSITION TO MOTION TO CONSOLIDATE

COMES NOW the Missouri Department of Economic Development-Division of Energy (“Division of Energy”), under authority of, and in accordance with, 4 CSR 240-2.080(13), and hereby responds in opposition to the *Motion of Certain Intervenors to Consolidate Ameren Missouri Rate Case with and [sic.] Ameren Missouri’s Application for Approval of Electric Vehicle Charging Stations* (“Motion”) filed September 12, 2016, and for its response states as follows:

1. Granting the Motion to consolidate this proceeding (File No. ET-2016-0246) with the rate case (File No. ER-2016-0179) will create unnecessary delay with no adequate justification.

Missouri Supreme Court Rule 66.01 states:

When civil actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all the matters in issue in the civil actions; it may order all the civil actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.

A primary objective of consolidation is to prevent separate actions from producing conflicting results. *Labor & Indus. Relations Com'n v. Division of Employment Sec.*, 856 S.W.2d 376 (Mo. Ct. App. E.D. 1993). Another objective of consolidation is the efficient administration of judicial proceedings. *Elam v. Alcolac, Inc.*, 765 S.W.2d 42, 230 (Mo. Ct. App. W.D. 1988). On a motion to consolidate two or more cases the moving party bears the burden of persuasion. *In re Interstate Medicaid Patients at Good Samaritan Nursing Center*,

415 F. Supp. 389 (J.P.M.L. 1976). Movants have not met their burden of persuasion to show that the pending proceedings involve a common question of law or fact. Additionally, Movants have not shown that maintaining separate proceedings will produce conflicting results or result in the inefficient administration of the proceedings.

2. All issues and questions identified in the Motion regarding the merits of Ameren Missouri's proposed pilot program can be fully addressed in this proceeding without conflicting with the rate case. The issues the Commission must consider and decide in the rate case are not relevant to this case with the exception of possible investment costs associated with the one charging station that is planned to be installed, used, and useful prior to the end of the rate case true-up period; however, consolidation of the cases would preclude Ameren Missouri from seeking any cost recovery for the first charging station since the pilot program would not be approved until after the true-up date in the rate case. Even for that one station, the rate treatment of the investment, as is the rate treatment for all investments up to the true-up cutoff date, can be dealt with in the rate case separate from this proceeding.
3. Ameren Missouri's pilot program as proposed will allow investment in equipment supporting EV charging stations at one location before the end of 2016. This investment will allow Ameren Missouri to take advantage of federal tax credits due to expire in December 2016. This tax credit will reduce the necessary investment in EV charging equipment by almost one-third of the cost of the first station to be installed, or approximately \$30,000 of the estimated \$95,000 cost, which will reduce the return of and return on investment in rates. Consolidating this case with the general rate case, which will not be completed until approximately June of 2017, would increase the cost of the EV charging station slated to be placed in-service in 2016 because this tax credit will be unavailable. The Commission can

avoid such a result only by keeping this proceeding separate from the rate case, and by rendering a decision on the pilot program within the timeframe outlined in the Ameren Missouri's application.

4. In summary, the Commission should deny the Motion because Movants have failed to carry their burden of persuasion that the proceedings involve a common question of law or fact and that maintaining two proceedings could create conflicting results or result in the inefficient administration of the judicial proceedings. To the contrary consolidation of the proceedings will unnecessarily delay the approval of the pilot program increasing the total cost of the proposed facilities and preclude Ameren Missouri from the opportunity to start recovering the cost of a fraction of these facilities until a future rate case.

WHEREFORE, the Division of Energy prays that the Commission make and enter its order denying the Motion.

Respectfully submitted,

/s/ Alexander Antal

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CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have been emailed to the certified service list this 22nd day of September, 2016.

/s/ Alexander Antal