

**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 Lighting Update)	File No. ET-2016-0152
and Tariff Filing)	Tariff No. YE-2016-0159

PUBLIC COUNSEL'S MOTION TO REJECT TARIFF SHEETS

COMES NOW the Office of the Public Counsel ("OPC" of "Public Counsel") and for its Motion to Reject Tariff Sheets states:

1. On December 17, 2015, Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri") filed revised tariff sheets for the company's 5(M) service classification for company-owned street and outdoor area lighting (Doc. No. 2). Those tariff sheets bear an effective date of January 16, 2016.
2. On December 23, 2015, Ameren Missouri filed a tariff sheet substitution that included a change in the language regarding High Pressure Sodium and Mercury Vapor bulb offerings under sections C and D of the tariff sheets filed on December 17, 2015 (Doc. No. 6). The substitute tariff sheet bears an effective date of January 16, 2016.
3. Together, the revised tariff sheets unlawfully change the rates applicable to the company's 5(M) service classification for company-owned street and outdoor area lighting service provided on "standard horizontal," "enclosed luminaire on existing wood" poles and for lighting provided on "standard side mounted," "open bottom" fixtures "on existing wood" poles. Mo. P.S.C. Schedule No. 6, 1st Revised Sheet No. 58 (current); Mo. P.S.C. Schedule No. 6, 2nd Revised Sheet No. 58 (proposed).

Commission's Authority to Set Rates

4. Whenever a utility files "any schedule stating a new rate or charge, or any new form of contract or agreement, or any new rule, regulation or practice relating to any rate, charge or

service or to any general privilege or facility” the Missouri Public Service Commission (“Commission”) may initiate formal proceedings to evaluate the change. Mo. Rev. Stat. § 393.150.1. Traditionally, this filing by the utility is in the form of revised tariff sheets. ““A tariff is a document which lists a public utility [sic] services and the rates for those services.”” *State ex rel. Mo. Gas Energy v. Pub. Serv. Comm’n*, 210 S.W.3d 330, 337 (Mo. App. W.D. 2006) (quoting *Bauer v. Southwestern Bell Tel. Co.*, 958 S.W.2d 568, 570 (Mo. App. E.D. 1997)). A “rate” is “every individual or joint rate, fare, toll, charge, reconsigning charge, switching charge, rental or other compensation of any corporation, person or public utility, or any two or more such individual or joint rates, fares, tolls, charges, reconsigning charges, switching charges, rentals or other compensations of any corporation, person or public utility or any schedule or tariff thereof[.]” Mo. Rev. Stat. § 386.020(46) (Cum. Supp. 2013).

5. Utilities make tariff filings because Missouri law requires that “[a]ll charges made or demanded by any such gas corporation, electrical corporation, water corporation or sewer corporation for gas, electricity, water, sewer or any service rendered or to be rendered shall be just and reasonable and not more than allowed by law or by order or decision of the commission.” Mo. Rev. Stat. § 393.130.1 (Cum. Supp. 2013). Any rate charged in excess of that allowed by law or by order or decision of the commission is prohibited. *Id.* Thus, it is the Commission that determines the rates that a utility may charge.

6. Importantly, Missouri law permits the Commission only to set “just and reasonable rates.” *See* Mo. Rev. Stat. §§ 393.130 (Cum. Supp. 2013), 393.140 (2000). What is just and reasonable is determined through the consideration of “all relevant factors.” *State ex rel. Util. Consumers’ Council of Mo., Inc. v. Pub. Serv. Comm’n*, 585 S.W.2d 41, 51-58 (Mo. 1979) (“UCCM”); Mo. Rev. Stat. § 393.270.4 (2000). Failure to consider all relevant factors when

setting rates is referred to as “single-issue ratemaking,” and is prohibited. *State ex rel. Pub. Counsel v. Pub. Serv. Comm’n*, 397 S.W.3d 441, 448 (Mo. App. W.D. 2013).

7. A general rate case is the process by which all relevant factors are presented to the Commission to consider in evaluating a proposed change in rates. *See State ex rel. Office of Pub. Counsel v. Mo. Pub. Serv. Comm’n*, 331 S.W.3d 677, 690 (Mo. App. W.D. 2011) (stating “[t]he General Assembly understood that the role of full rate case proceedings is to set base rates upon a consideration of all relevant factors.”). There may be certain circumstances when a tariff filing does not require a full rate case; however, this case is not one of them. *See State ex rel. Mo. Gas Energy v. Pub. Serv. Comm’n*, 210 S.W.3d 330, 334 (Mo. App. W.D. 2006) (reasoning that because the Cold Weather Rule “does not affect how much the utility may charge for its services,” including that change to the companies’ tariffs outside of a general rate case is permissible). Here, Ameren Missouri seeks Commission approval to implement revised tariff sheets that *do affect* how much the utility may charge for its services. As such, before approving the revised tariffs, the Commission must evaluate all relevant factors in a full rate case.

Company’s Proposed Rate Change

8. Presently, Ameren Missouri is authorized to charge the following rates for lighting provided on “standard horizontal,” “enclosed luminaire on existing wood” poles:

High Pressure Sodium		Mercury Vapor	
Lumens	Rate (per bulb per month)	Lumens	Rate (per bulb per month)
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

Mo. P.S.C. Schedule No. 6, 1st Revised Sheet No. 58 (current).

9. Ameren Missouri proposes to replace these existing lighting fixtures and bulbs, upon failure, with an LED fixture and bulb beginning on April 1, 2016. The rates for the existing bulbs will remain unchanged. However, once a fixture is replaced with an LED bulb, the company proposes to change the rate for lighting service on that “standard horizontal,” “enclosed luminaire on existing wood” pole. This is not a new service. The company will be providing street and outdoor area lighting on the existing pole. The company proposes to charge the following new rates for the lighting service provided:

Watts	Rate (per bulb per month)
40-50	\$11.35
90-110	\$16.07
180-220	\$29.73

Mo. P.S.C. Schedule No. 6, 2nd Revised Sheet No. 58 (proposed).

10. Additionally, Ameren Missouri proposes to change the rates for lighting service provided on “standard side mounted,” “open bottom” fixtures “on existing wood” poles. Below are the current rates charged for lighting provided for “standard side mounted,” “open bottom” fixtures “on existing wood” poles.

High Pressure Sodium		Mercury Vapor	
Lumens	Rate (per bulb per month)	Lumens	Rate (per bulb per month)
5,800	\$10.05	3,300	\$10.05
9,500	\$10.98	6,800	\$10.98

Mo. P.S.C. Schedule No. 6, 1st Revised Sheet No. 58 (current).

11. For lighting provided on “standard side mounted,” “open bottom” fixtures “on existing wood” poles, Ameren Missouri also proposes to replace the existing lighting fixtures and bulbs, upon failure, with an LED fixture and bulb beginning on April 1, 2016. Here too, the rates for the existing bulbs will remain unchanged. However, once a fixture is replaced with an LED bulb, the

company proposes to change the rate for lighting service to that “standard side mounted,” “open bottom” fixture on the “existing wood” pole. The company proposes to charge the following new rate for the lighting service provided:

Watts	Rate (per bulb per month)
40-50	\$9.92

Mo. P.S.C. Schedule No. 6, 2nd Revised Sheet No. 58 (proposed).

12. As shown above, the revised tariff sheets change the rates applicable to the company’s 5(M) service classification for company-owned Street and Outdoor Area Lighting service provided on “standard horizontal,” “enclosed luminaire on existing wood” poles and for lighting provided on “standard side mounted,” “open bottom” fixtures “on existing wood” poles. Because the tariff sheets change the rates, the Commission must consider all relevant factors within a full rate case.

13. If Ameren Missouri intended to institute a full rate case with the filing of these revised tariffs, the Commission should consider the filing deficient and reject the tariff sheets. In addition to being lawful – which may be met if a full rate case is conducted – all Commission decisions must be reasonable. *State ex rel. Mo. Gas Pipeline LLC v. Mo. Pub. Serv. Comm’n*, 366 S.W.3d 493, 495-496 (Mo. 2012). A Commission order is reasonable when it is supported by substantial, competent evidence on the whole record. *Id.* In this case, Ameren Missouri did not submit *any* testimony explaining or supporting the proposed changes. The only document submitted by Ameren Missouri is a report titled “Light Emitting Diode (LED) Street and Outdoor Area Lighting Report” that lists no author and is not verified by any affidavit (Doc. No. 1). It would be unreasonable for the Commission to base a decision on such evidence.

Additional Considerations

14. In addition to the change in rates, the company requests that the Commission “find the conditions of the stipulation [*Nonunanimous Stipulation and Agreement Regarding MEEIA Low Income Exemption and LED Streetlighting Issues* filed in ER-2014-0258 (“LED Stipulation”)] have been satisfied and that no further LED reports need to be submitted.” (Doc. No. 1, p. 2). As it relates to LED reports, the LED Stipulation provides “[t]he Signatories agree Ameren Missouri should continue updating its annual evaluation of the cost effectiveness of company-owned LED street and outdoor area lighting pursuant to the terms of the Commission’s *Order Approving Tariff* in File No. EO-2013-0367.” See *In the Matter of Union Electric Company d/b/a Ameren Missouri’s Tariffs to Increase Its Annual Revenues for Electric Service*, File No. ER-2014-0258, Order Approving Non-unanimous Stipulation and Agreement Regarding MEEIA Low Income Exemption and LED Street Lighting Issues, *Iss’d* Mar. 19, 2015, Doc. No. 465. An examination of the *Order Approving Tariff*, in File No. EO-2013-0367, reveals that the Commission ordered Ameren Missouri to “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 the Staff.” *In the Matter of Union Electric Company d/b/a Ameren Missouri’s Request to Extend Date to Provide LED Street Lighting Information*, File No. EO-2013-0367, Order Approving Tariff, *Iss’d* Oct. 23, 2013, Doc. No. 12. Nothing in the order supports the company’s suggestion that Ameren Missouri should be relieved from its agreement to file its LED analysis when it begins to implement LED street lighting. The Commission should require Ameren Missouri to continue providing an annual update consistent with the company’s agreements.

15. The company's filing does not indicate that it will provide notification of the change in terms and services to ratepayers. Should the Commission approve changes to the company's tariff sheets, Public Counsel recommends that the Commission require the company to notify its customers of the change.

WHEREFORE Public Counsel requests that the Commission reject tariff sheets Mo. P.S.C. Schedule No. 6., 2nd Revised Sheet No. 58; Mo. P.S.C. Schedule No. 6., 2nd Revised Sheet No. 58.1; Mo. P.S.C. Schedule No. 6., 2nd Revised Sheet No. 58.2; Mo. P.S.C. Schedule No. 6., 2nd Revised Sheet No. 58.3; Mo. P.S.C. Schedule No. 6., 2nd Revised Sheet No. 58.4; Mo. P.S.C. Schedule No. 6., 2nd Revised Sheet No. 58.5 filed in this case by Ameren Missouri.

Respectfully,

OFFICE OF THE PUBLIC COUNSEL

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all counsel of record this 31st day of December 2015:

/s/ Tim Opitz