

**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 its Surge Protection         )  
Program   )

Case No. ET-2021-0082  
Tariff No. [YE-2021-0081](#)

**THE OFFICE OF THE PUBLIC COUNSEL’S INITIAL BRIEF**

Respectfully submitted,

*/s/ Nathan Williams*

Nathan Williams  
Chief Deputy Public Counsel  
Missouri Bar No. 35512

Office of the Public Counsel  
Post Office Box 2230  
Jefferson City, MO 65102  
(573) 526-4975 (Voice)  
(573) 751-5562 (FAX)  
[Nathan.Williams@opc.mo.gov](mailto:Nathan.Williams@opc.mo.gov)

Attorney for the Office  
of the Public Counsel

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Brief  
**Summary**

The Commission should reject Ameren Missouri's tariff sheets designed to offer its customers the option of having Ameren Missouri install an additional electrical power surge protection device (surge protector) on its service line used to serve them. No one disputes that Ameren Missouri is using industry best practices to limit electrical surges on its system,<sup>1</sup> and that it provides safe, reliable, and adequate electric service. Ameren Missouri's customers who desire enhanced surge protection can acquire and employ surge protectors on their side of Ameren Missouri's service meter.<sup>2</sup> This customer capability to enhance surge protection independent of Ameren Missouri means that there is no need for the Commission to protect the public from Ameren Missouri in the surge protection market, and that Ameren Missouri could offer surge protectors in that market without a tariff provision or other Commission authorization.<sup>3</sup> Because Ameren Missouri already is providing safe, reliable, and adequate electric service, and Ameren Missouri customers already can obtain enhanced surge protection through existing alternatives, this Commission should reject Ameren Missouri's tariff sheets. Further, it should reject them because they would insulate Ameren Missouri from the competitive market risk that it has misjudged the market for surge protectors.

Additionally, Ameren Missouri's proposal is discriminatory. Ameren Missouri proposes that all of its customers pay through their rates Ameren Missouri's costs to acquire (with an included end-use device surge damage warranty of up to \$5,000 per appliance, \$5,000 per occurrence, and \$50,000 in the aggregate over 15 years), offer, install, and remove these surge

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<sup>1</sup> Ex. 3, Ameren Missouri witness Schneider direct, pp. 2-3.

<sup>2</sup> Ex. 16, Public Counsel witness Roth rebuttal, p. 12; Ex. 1, Ameren Missouri witness Byrne surrebuttal, pp. 8-9; Ex. 3, Ameren Missouri witness Schneider direct, p. 5; Ex. 8, Staff witness Bax rebuttal, pp. 5-6; Ameren Missouri witness Byrne, Tr. 67-69, 73; Ameren Missouri witness Schneider, Tr. 90-92.

<sup>3</sup> Ex. 1, Ameren Missouri witness Byrne surrebuttal, pp. 8-9.

protectors, when only those who choose for Ameren Missouri to install them receive any electric service benefit—enhanced protection from power surges on their service line.<sup>4</sup> Ameren Missouri’s only claimed benefit to its customers without enhanced surge protection is Ameren Missouri’s projection that sometime in the future its revenues from those with enhanced surge protection will exceed Ameren Missouri’s cost to offer and provide them.<sup>5</sup>

To address the discrimination in Ameren Missouri’s proposal should the Commission decide to allow Ameren Missouri to offer end-use damage warranted enhanced surge protection as a regulated service, then, because the enhanced surge protection only improves Ameren Missouri’s electrical service to those who choose it, Ameren Missouri should recover its costs to offer, install, and remove these surge protectors only from its customers who choose to have Ameren Missouri install them, and Ameren Missouri’s rate for that enhanced surge protection should be based on traditional cost-of-service principles—Ameren Missouri’s cost to provide that protection, plus a fair return on its investment to provide that protection.

### **Argument**

Ameren Missouri is using industry best practices to limit the number and severity of electrical surges—transient power spikes—on its system, and is providing safe, reliable, and adequate electric service to its customers. Ameren Missouri employs “surge arrestors at many different points, including virtually all distribution transformers and switchgear, and along some overhead conductor spans where there are not line transformers nearby,” and “a static wire along with overhead conductor spans that will provide a ground path for lightning based surges to divert them from entering the system.”<sup>6</sup> Ameren Missouri says these industry best practices provide “as

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<sup>4</sup> Ex. 3, Ameren Missouri witness Schneider direct, p. 7, Ex. 5, Ameren Missouri witness Wills direct, p.4.

<sup>5</sup> Ex. 3, Ameren Missouri witness Schneider direct, pp. 8-11.

<sup>6</sup> Ex. 3, Ameren Missouri witness Schneider direct, pp. 2-3.

high of a level of surge protection as is practical.”<sup>7</sup>

Despite asserting its industry best practices provide “as high of a level of surge protection as is practical”<sup>8</sup> and being able to offer surge protection devices to the public without Commission authorization, Ameren Missouri is seeking for the Commission to approve tariff sheets to offer to its retail customers for \$9.95 per month \$70 devices designed to reduce transient electrical power surges—surge protectors. Ameren Missouri would install these surge protectors on its side of the meter in its meter boxes on customer service lines to reduce the likelihood of electrical power surges through those lines. They would provide the same protection if installed on the customer side of the meter.<sup>9</sup>

Ameren Missouri asserts that it is proposing to offer its customers these surge protectors as “a means whereby customers can choose to further protect their appliances and equipment from potential damage when surges still occur” because “there are still surge events that simply cannot be prevented even with system design following best practices.”<sup>10</sup> Ameren Missouri’s witness Jared Schneider testified, “While as noted [Ameren Missouri]’s system is designed to minimize surges and does a good job of doing so, there is only so much that can be done at the electric system level to prevent damage from surges. A surge protection device can nearly eliminate this risk, which is protection a substantial number of customers want and value, as indicated by the existence of similar programs across the country and by the survey results I spoke of earlier.”<sup>11</sup> None of those similar programs are offered through a tariff, and there is no reason Ameren Missouri too cannot offer surge protectors to the public without Commission authorization.

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<sup>7</sup> Ex. 3, Ameren Missouri witness Schneider direct, p. 2.

<sup>8</sup> Ex. 3, Ameren Missouri witness Schneider direct, p. 2.

<sup>9</sup> Ameren Missouri witness Schneider Tr. 92.

<sup>10</sup> Ex. 3, Ameren Missouri witness Schneider direct, p. 3.

<sup>11</sup> Ex. 3, Ameren Missouri witness Schneider direct, p. 6.

Ameren Missouri's proposed enhanced surge protection is to add a surge protector on Ameren Missouri's side of customer meters; therefore, these surge protectors would be part of Ameren Missouri's system.

In addition to the surge protectors, customers would have the benefit of a 15-year manufacturer's warranty for electric line surge damage to their "motor[-]driven household equipment such as HVAC units, refrigerators, clothes washers and dryers, dishwashers, freezers, hard[-]wired fans, and cooking appliances,"<sup>12</sup> but not their electronic devices. The warranty is for up to \$5,000 per appliance, \$5,000 per occurrence, and \$50,000 in the aggregate over 15 years.<sup>13</sup>

One "catch" in Ameren Missouri's proposal is that customers who choose for Ameren Missouri to provide enhanced surge protection must pay for that enhanced protection for at least two years,<sup>14</sup> *i.e.*, a customer that chooses for Ameren Missouri to provide enhanced surge protection will pay a total of at least \$238.80 ( $\$9.95 * 24$ ) for a device that cost Ameren Missouri \$70 to acquire with the warranty, and about \$40 to install, a total of about \$110.

**I. May Ameren Missouri lawfully offer its proposed surge protection program as a regulated program?**

Position: No. As proposed Ameren Missouri's surge protection program is unduly discriminatory. The program will provide actual or perceived improved quality of service only to program participants, but Ameren Missouri proposes that all of its customers bear the costs of its program. Even if the program were modified to make it nondiscriminatory, as a matter of policy the Commission should not approve it as a regulated activity because Ameren Missouri's customers readily can obtain the same improvement in the quality of their service by means of devices on the customer side of the meters by which Ameren Missouri serves them.

Adding a surge protector on a service line incrementally enhances the quality of a customer's electric service by reducing the magnitude of power surges that reach appliances,

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<sup>12</sup> Ex. 3, Ameren Missouri witness Schneider direct, p. 7.

<sup>13</sup> Ex. 3, Ameren Missouri witness Schneider direct, p. 7.

<sup>14</sup> Ex. 16, Public Counsel witness Roth rebuttal, p. 3.

equipment and other devices energized by that line; therefore, if Ameren Missouri installs surge protectors as part of its system as it proposes (on its side of the meter), they would be “electrical plant” as defined by § 386.020(14), RSMo. Stated differently, by adding surge protectors Ameren Missouri would be providing a different and higher quality of electric service—one with fewer power spikes.<sup>15</sup>

Ameren Missouri claims that those who elect to have it install surge protectors will have better service (more protection against electrical power surges and the manufacturer’s warranty), and that the net economic benefit (what customers pay for the service in excess of what it costs Ameren Missouri to provide the service) will reduce Ameren Missouri’s cost to provide electric service to the benefit of all of its customers. Ameren Missouri identifies no other benefit to its customers who do not choose for Ameren Missouri to provide them with enhanced surge protection. In short, Ameren Missouri proposes to socialize to all of its customers both the cost of it providing enhanced surge protection and the net economic benefits that it claims providing enhanced surge protection will generate. That is discriminatory because only those customers who choose for Ameren Missouri to enhance their surge protection derive any quality of electric service benefit, while all of Ameren Missouri customers are exposed to the economic cost of Ameren Missouri providing that enhanced surge protection to that subset of customers.

**II. If it is lawful, should the Commission approve an Ameren Missouri surge protection program and treat the revenue, expense and investment associated with it as a regulated activity?**

Position: Only if program participants are responsible for Ameren Missouri’s revenue requirement impacts from the program.

Without conceding what Ameren Missouri is proposing is lawful, this Commission also should reject Ameren Missouri’s tariff sheets because Ameren Missouri’s pricing for its proposed

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<sup>15</sup> Ameren Missouri characterizes it as improved service. See Ex. Ameren Missouri witness Schneider direct, p. 6.

surge protection offering is based on unregulated market-based offerings of others that is well above what Ameren Missouri projects it would cost Ameren Missouri to provide this service, even with a return on its investment. Based on a 15-year service life and cost of \$70, depreciation expense on the protectors is \$.39 per month ( $\$70/15/12$ ). If an installation cost of \$40 is added, depreciation expense jumps to \$.61 per month ( $(\$70+\$40)/15/12$ ). Even assuming a 5-year service life, depreciation on the protectors is \$1.17 per month ( $\$70/5/12$ ) and with a \$40 installation cost \$1.83 per month ( $(\$70+\$40)/5/12$ ). The apparent attraction to customers of Ameren Missouri's proposed surge protection program is not as much the physical protection of the surge protection devices as the insurance coverage the warranty provides of up to \$5,000 per appliance, \$5,000 per occurrence, and \$50,000 in the aggregate over 15 years. This Commission should not allow Ameren Missouri to use its status as a state-sanctioned monopolistic electricity provider to compete in open markets with essentially no risk—Ameren Missouri is asking the Commission to guarantee it will not lose money by offering the surge protectors when others who offer them face that market risk. The Commission accepting this principle is Ameren Missouri's primary goal in this case.

If the Commission were to allow Ameren Missouri to offer enhanced electric service by adding surge protectors on service lines, then it should derive the rates for that enhanced service based on Ameren Missouri's cost to provide that service plus a return on Ameren Missouri's capital investment, just as it does for Ameren Missouri's present standard offerings for residential, commercial, and industrial electric service. In short, rates for enhanced surge protected service should be designed so that those who elect the enhanced service pay for it, including Ameren Missouri's profit, and should be designed so that Ameren Missouri recovers its marginal costs, investment, and return on its investment to provide the enhanced surge protected service from those customers.

Moreover, this Commission should reject Ameren Missouri's tariff sheets because Ameren Missouri is proposing that it be insulated from the competitive market risk that it has misjudged the demand for Ameren Missouri-sourced surge protectors.

**III. If the Commission determines it is appropriate to regulate Ameren Missouri's surge protection program:**

**A. Should it authorize Ameren Missouri to offer its program at the proposed rate and under the requested tariff provisions?**

Position: No, see positions to issues I and II, and argument thereunder.

**B. Should the Commission impose a condition on any approval of the program that requires Ameren Missouri to hold non-participating customers harmless from the revenue requirement associated with the surge protection program?**

Position: Yes. As explained earlier, it would be discriminatory to require customers who do not get any enhanced service quality benefit from the surge protectors to be exposed to Ameren Missouri's costs to offer, install, and remove them.

**IV. Should the Company provide customer education and outreach in conjunction with any program that may be authorized?**

Position: Yes. Ameren Missouri is providing safe, reliable, and adequate electric service; therefore, customers should be fully informed of the marginal enhanced service quality of adding the surge protectors Ameren Missouri is proposing to offer.

**V. Should the Commission require any specific accounting treatment related to the program, apart from that accounting required by the Uniform System of Accounts?**

Position: The Office of Public Counsel does not have a position on this issue at this time.

**A. Should Ameren Missouri be required to separately designate a depreciation expense and return (as defined in Section 393.1400, RSMo.) on capital investments made in the program and included in the PISA deferral mechanism?**

Position: The Office of Public Counsel does not have a position on this issue at this time.

**B. Should Ameren Missouri be required to maintain all program records?**



Position: The Office of Public Counsel does not have a position on this issue at this time.

### **Conclusion**

For all the foregoing reasons the Commission should reject Ameren Missouri's tariff sheets designed to offer its customers the option of having Ameren Missouri install an additional surge protector on its service line used to serve them.

Respectfully,

/s/ Nathan Williams

Nathan Williams  
Chief Deputy Public Counsel  
Missouri Bar No. 35512

Office of the Public Counsel  
Post Office Box 2230  
Jefferson City, MO 65102  
(573) 526-4975 (Voice)  
(573) 751-5562 (FAX)  
[Nathan.Williams@opc.mo.gov](mailto:Nathan.Williams@opc.mo.gov)

### **CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 14<sup>th</sup> day of May 2021.

/s/ Nathan Williams