

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

In the Matter of Ameren Missouri's)	
Application for Authorization to)	<u>File No. ET-2014-0085</u>
Suspend Payment of Solar Rebates)	Tariff No. YE-2014-0173

ORDER ADOPTING PROCEDURAL SCHEDULE

Issue Date: October 18, 2013

Effective Date: October 18, 2013

On October 11, 2013, Union Electric Company d/b/a Ameren Missouri filed an Application for Authority to Suspend Payment of Solar Rebates. Because Section 393.1030, RSMo, as amended in 2013 by HB 142, requires the Commission to act on Ameren Missouri's application within 60 days, Ameren Missouri included a proposed procedural schedule as part of its application. The Commission directed any party wishing to respond to the proposed procedural schedule to do so no later than October 17. Staff and Public Counsel filed timely responses. On October 18, Ameren Missouri filed a response accepting most of the suggestions offered by Staff and Public Counsel.

The Commission will adopt the procedural schedule proposed by Ameren Missouri and modified by Staff and Public Counsel, with two exceptions. First, in its response, Staff recommends the Commission allow the parties an opportunity to present live testimony at the hearing if that is necessary to incorporate responses to data requests received too late to allow for a response in prefiled testimony. Ameren Missouri does not object to allowing live testimony at the hearing if that is necessary, but contends the Commission should address that question only if some party later asserts an actual need for such testimony.

Ameren Missouri is correct. The Commission is willing to allow for live testimony at the hearing if some party establishes the need for such testimony. However, explicitly allowing for that possibility in the procedural schedule does not actually resolve the question of whether such testimony will be allowed. For that reason, such a statement is unnecessary and could create confusion.

Second, Public Counsel is concerned that the procedural schedule proposed by Ameren Missouri does not allow sufficient time after the hearing for the parties to file briefs. For that reason, Public Counsel proposes that the date for filing briefs be extended from Monday, November 18, to Friday, November 22. The Commission will not make that change.

By statute, the Commission must rule on Ameren Missouri's application within 60 days of the day it was filed. The application was filed on October 11, so the Commission must rule by December 10. However, any Commission order ruling on the application must allow at least 10 days for the parties to request rehearing, as "any shortening of the date on which PSC orders will become effective to less than ten days is presumptively unreasonable".¹ That means the Commission's order must be issued no later than December 1, which is a Sunday during the Thanksgiving Day weekend. In order to comply with the 60-day requirement of the statute, while giving its order the required the 10-day effective date, the Commission will have to issue its report and order at its agenda meeting during the week of November 24. That agenda meeting will likely be held on Tuesday, November 26. Thus, Public Counsel's proposed modification would allow the Commission

¹ *State ex rel. Office of Public Counsel v. Public Serv. Com'n of the State of Mo.*, -- S.W.3d -- , 2013 WL 4805765 (Mo. App. W.D. 2013).

only one business day to deliberate, write, and issue its report and order. Obviously, such modification is not reasonable and will not be adopted.

THE COMMISSION ORDERS THAT:

1. The following procedural schedule is established:

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| Ameren Missouri Direct Testimony | - | October 11, 2013 |
| Parties allowed 5 calendar days to answer a data request and 3 calendar days to object or advise of the need for additional time to respond beginning | - | October 11, 2013 |
| Rebuttal Testimony (non-Ameren Missouri parties) | - | October 25, 2013 |
| Surrebuttal and Cross-Surrebuttal Testimony | - | November 1, 2013 |
| Parties allowed 3 calendar days to answer a data request and 3 calendar days to object or advise of the need for additional time to respond beginning | - | November 1, 2013 |
| Settlement Conference | - | November 4, 2013 |
| List of Issues, Order of Witnesses, Order of Cross-Examination, Order of Opening | - | November 5, 2013 |
| Statements of Position | - | November 6, 2013 |
| Hearing | - | November 8, 2013, beginning 8:30 a.m. |
| Briefs | - | November 18, 2013 |

2. The parties shall comply with the following procedural requirements:

- (A) Testimony shall be prefiled as defined in Commission Rule 4 CSR 240-2.130. All parties must comply with this rule, including the requirement that testimony be filed on line-numbered pages.
- (B) The parties shall agree upon and Staff shall file a list of the issues to be heard, the witnesses to appear on each day of the hearing, the order in which they will be called, and the order of cross-examination for each witness. The list of issues should be detailed enough to inform the Commission of each issue that must be resolved. The Commission will view any issue not contained in this list of issues as uncontested and not requiring resolution by the Commission.
- (C) Each party shall file a simple and concise statement summarizing its position on each disputed issue.
- (D) All pleadings, briefs, and amendments shall be filed in accordance with Commission Rule 4 CSR 240-2.080. Briefs shall follow the same list of issues as filed in the case and must set forth and cite the proper portions of the record concerning the remaining unresolved issues that are to be decided by the Commission.
- (E) All parties shall bring an adequate number of copies of exhibits they intend to offer into evidence at the hearing. If an exhibit has not been prefiled, the party offering it must bring, in addition to the copy for the court reporter, a copy for each Commissioner, the Presiding Judge, and all counsel.
- (F) All parties shall provide copies of testimony (including schedules), exhibits, and pleadings to other counsel by electronic means and in electronic form,

essentially contemporaneously with the filing of such testimony, exhibits, or pleadings where the information is available in electronic format (.PDF, .DOC, .WPD, or .XLS). Parties are not required to put information that does not exist in electronic format into electronic format for purposes of exchanging it.

- (G) If a data request has been responded to, a copy of such response shall be provided to another requesting party, unless the responding party objects to providing the response to such requesting party. All parties shall submit their responses to Staff data requests in the Commission's Electronic Filing Information System. If a data request has been responded to by Ameren Missouri through Ameren Missouri's Caseworks system, Ameren Missouri will provide another requesting party access to Caseworks for their review. If a data request has not yet been responded to, a copy of such response shall be provided to a requesting party within the response time set for such underlying data request, unless the responding party objects to providing the response to such requesting party. If a data request has not yet been responded to by Ameren Missouri, Ameren Missouri will provide another requesting party access to Caseworks for their review when the response is provided to the party that issued the underlying data request.
- (H) The parties shall make an effort to not include highly confidential or proprietary information in data request questions. If highly confidential or proprietary information must be included in data request questions, the highly

confidential or proprietary information shall be appropriately designated as such pursuant to Commission Rule 4 CSR 240-2.135.

- (l) Each party serving a data request on another party shall provide an electronic copy of the text of the “description” of that data request to counsel for all other parties contemporaneously with service of the data request. Regarding Staff-issued data requests, if the description contains highly confidential or proprietary information, or is voluminous, a hyperlink to the EFIS record of that data request shall be considered a sufficient copy. Data requests served after 5:00 p.m. shall be considered served on the next calendar day. If a party desires the response to a data request that has been served on another party, the party desiring a copy of the response shall request a copy of the response from the party answering the data request. Thus, if a party desires a copy of a response by Ameren Missouri to a Staff-issued data request, the party must ask Ameren Missouri, not Staff, for a copy of the data request response unless there are appropriate reasons to direct the discovery to the party originally requesting the material. Data requests, objections to data requests, and notifications respecting the need for additional time to respond to data requests shall be sent by e-mail to counsel for all parties. Counsel may designate other personnel to be added to the service list for data requests, but shall assume responsibility for compliance with any restrictions on confidentiality. Data request responses shall be served on counsel for the requesting party and on the requesting party’s employee or representative who submitted the data request and shall

be served electronically, if feasible and not voluminous as defined by Commission rule.

- (J) Until surrebuttal testimony is filed on November 1, 2013, the response time for all data requests shall be five calendar days, with three calendar days to object or notify the requesting party that more than five calendar days will be needed to provide the requested information. After November 1, 2013, the response time for data requests shall be three calendar days to provide the requested information and three calendar days to object or notify the requesting party that more than three calendar days will be needed to provide the requested information.
- (K) Workpapers that were prepared in the course of developing a witness' direct rebuttal, surrebuttal, or cross-surrebuttal testimony shall not be filed with the Commission, but, without request, shall be submitted to each party on the same day the particular testimony is filed. Workpapers, or a complete set of workpapers, need not be submitted to a party that has indicated it does not want to receive workpapers, or a complete set of workpapers. Workpapers containing highly confidential or proprietary information shall be appropriately marked. If there are no workpapers associated with testimony, the party's attorney shall so notify the other parties within the time allowed for providing those workpapers.
- (L) Where workpapers or data request responses include models or spreadsheets or similar information originally in a commonly available format where inputs or parameters may be changed to observe changes in inputs, if

available in that original format, the party providing the workpaper or response shall provide this type of information in that original format with formulas intact.

3. The transcripts of the evidentiary hearing shall be expedited.

4. The hearing shall be held at the Commission's office at the Governor Office Building, Room 310, 200 Madison Street, Jefferson City, Missouri. This building meets accessibility standards required by the Americans with Disabilities Act. If you need additional accommodations to participate in this hearing, please call the Public Service Commission's Hotline at 1-800-392-4211 (voice) or Relay Missouri at 711 before the hearing.

5. This order shall become effective upon issuance.

BY THE COMMISSION



A handwritten signature in cursive script that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Morris L. Woodruff, Chief Regulatory
Law Judge, by delegation of authority
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 18th day of October, 2013.