

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

In the Matter of the Application	)		
Of Union Electric Company	)	Case No.	ET-2016-0246
d/b/a Ameren Missouri for Approval	)		
of a Tariff Setting a Rate for	)	Tracking No.	YE-2017-0030
Electric Vehicle Charging Stations	)		
	)		

**MISSOURI DIVISION OF ENERGY’S  
INITIAL POST-HEARING BRIEF**

COMES NOW the Missouri Division of Energy (“DE”), by and through the undersigned counsel, and for its *Initial Post-Hearing Brief* in the above styled matter, states:

**LIST OF ISSUES**

**1. Commission Jurisdiction**

**Does the Commission have jurisdiction to regulate utility-owned and operated electric vehicle charging stations operated in a utility’s service area?**

Yes, the Public Service Commission (“Commission”) has jurisdiction to regulate utility-owned and operated electric vehicle (“EV”) charging stations (“EVCS”) operated in a utility service area. This issue turns on the resolution of two questions: whether or not the EVCSs constitute “electric plant” under the law, and whether or not Union Electric Company d/b/a Ameren Missouri (“Ameren”) is holding service from the EVCSs out to the general public.

The legal standard to determine whether the Commission has jurisdiction over a service was memorialized by the Missouri Supreme Court in State ex rel. M.O. Danciger & Co. v. Pub. Serv. Comm'n of Missouri, 275 Mo. 483, 205 S.W. 36, 39 (1918), where the Court stated:

For the operation of the electric plant must of necessity be for a public use, and therefore be coupled with a public interest; otherwise the Commission can have

no authority whatever over it. The electric plant must, in short, be devoted to a public use before it is subject to public regulation. Munn v. Illinois, 94 U. S. 113, 24 L. Ed. 77. Since the sole right of regulation depends upon the public interest, the subdivisions quoted above, and which define an electric plant and an electric corporation, mean the same, whether the idea of a public use is expressly written therein or not; it is, nevertheless, of necessity connoted and to be understood therein.

To determine if electric plant was held out for “public use,” the Court relied on the following test:

The fundamental characteristic of a public calling is indiscriminate dealing with the general public. As Baron Alderson said in the leading case: “Everybody who undertakes to carry for any one who asks him is a common carrier. The criterion is whether he carries for particular persons only, or whether he carries for every one. If a man holds himself out to do it for every one who asks him, he is a common carrier; but if he does not do it for every one, but carries for you and me only, that is a matter of special contract.” State ex rel. M.O. Danciger & Co. v. Pub. Serv. Comm'n of Missouri, 275 Mo. 483, 205 S.W. 36, 42 (1918).

Contrary to the arguments of the opponents of the pilot program, EVCSs constitute electric plant which, as described below, the Commission has previously recognized. Electric plant, “... includes all real estate, **fixtures and personal property** operated, controlled, **owned**, used or to be used for or in connection with or **to facilitate the** generation, transmission, **distribution, sale or furnishing of electricity for light, heat or power ...**” (Section 386.020(14), RSMo.; emphases added). The Commission recently held that electric plant

includes tangible items of property used to provide electric service. Staff of the Missouri Pub. Serv. Comm'n Complainant, v. Kansas City Power & Light Co. & KCP&L Greater Missouri Operations Co. Respondents., EC-2015-0309, 2016 WL 1730123, at \*9 (Mo. P.S.C. Apr. 27, 2016). Additionally, the Commission has previously exercised its jurisdiction over EVCSs in approving an encumbrance of EVCSs purchased by Kansas City Power & Light Company (“KCP&L”). In the Matter of the Application of Kansas City Power & Light Co. for Auth. to Encumber Certain Clean Cities Equip., EO-2011-0090, 2010 WL 4271175 (Mo. P.S.C. Oct. 20, 2010). In Clean Cities, KCP&L sought Commission approval of an encumbrance of the EVCSs it wished to purchase because Commission Rule 4 CSR 240-3.110(1)(D) states that a utility cannot encumber its assets, including electric plant, unless the Commission finds that the encumbrance will not be detrimental to the public interest. Id. By granting KCP&L’s request, the Commission exercised its statutory jurisdiction over EVCSs. Concluding in the present case that the EVCSs that Ameren proposes to operate are electric plant is therefore consistent with past Commission orders and the plain language of 386.020(14), RSMo. because the EVCSs are tangible items of property used to provide electric service.

Since the EVCSs constitute electric plant, the question is whether or not the EVCSs that Ameren Missouri proposes to operate are being devoted to a public use. In Danciger, the Court observed that there had been no express professing of public service. Id. at 39. In coming to this conclusion, the Court noted that there was neither existence nor assertion of the right of eminent domain, no franchise or license, no right or privilege to cross the streets, alleys, or other public places, nor were there any charter powers authorizing the respondent to engage in the public service. Id. In holding that the respondent had provided electric service to certain individuals within a three block radius of its electrical generator via special contract – and, therefore was not

a public utility – the Court noted that the respondent had no distribution system for supplying any of these private persons, and further noted that the consumer desiring light or power was responsible for furnishing the necessary wire and poles, and would bear all costs of constructing the line for transmitting the electric current from the respondent’s generation plant to the place of consumption. Id. at 36.

The facts in the present case are different than those in Danciger in that Ameren Missouri has made an express professing of public service. As a public utility, Ameren Missouri can assert the right of eminent domain and has all the necessary franchises and licenses necessary to provide electric service in its Commission-approved service territory. As a result, Ameren Missouri has the right and privilege to cross streets, alleys, or other public places to install its EVCSs. Ameren Missouri has charter powers to engage in public service. The present case is also distinct from Danciger because Ameren Missouri operates its own distribution system to provide light, heat, and power to consumers and bears all the costs of constructing the EVCSs, including the lines transmitting the electricity from Ameren Missouri’s generation plant to the locations where EV drivers charge their vehicles.

The Court of Appeals, in State ex rel. & to Use of Cirese v. Pub. Serv. Comm'n of Missouri, 178 S.W.2d 788, 790 (Mo. App 1944), held that respondents Joseph E. Cirese and Mary Cirese were operating a public utility, stating that “the record was replete with evidence of the public solicitation of business, indiscriminately, from any and all sources...” The Court of Appeals pointed to additional facts in the record evidencing that respondents were operating a public utility: (1) respondents doubled their electric production capacity at a time when they already had ample production to supply the needs of their own buildings and tenants; (2) at about the time this addition to respondents’ plant capacity was made, they began soliciting the business

of outside customers and running service lines to properties other than their own; and, (3) the respondents acquired a large number of meters and large quantities of poles and wire. State ex rel. & to Use of Cirese, 178 S.W.2d 788, 791 (Mo. App 1944).

Similar to Use of Cirese, Ameren Missouri provided evidence of its intent to provide EV charging to the public indiscriminately at Commission-approved tariffed rates.<sup>1</sup> Each of the proposed EVCSs would be available for use by the general public to charge electric vehicles used for both long-distance driving and driving within communities situated along the I-70 corridor.<sup>2</sup> Ameren Missouri intends to solicit this service via websites and smart phone applications that show EV drivers the locations of and pricing for service from its EVCSs.<sup>3</sup> Additionally, the present case is similar to Use of Cirese in that Ameren Missouri will be providing EV charging through extensions of its distribution system within its service territory onto properties other than its own at its own expense.

The Commission has jurisdiction to regulate Ameren Missouri's proposed electric vehicle charging station pilot program operated in the Company's utility service area since the proposed tariffed service passes both elements of the Danciger test: (1) Ameren Missouri will be operating EVCSs, which constitute electric plant; (2) Ameren Missouri will be devoting the EVCSs to a public use. Furthermore, the Missouri Supreme Court has held:

The Public Service Commission Law of our own state has been uniformly held and recognized by this court to be a **remedial statute**, which is bottomed on, and is **referable to, the police power of the state**, and under well-settled legal principles, as well as by reason of the precise language of the Public Service Commission Act itself, **is to be liberally construed with a view to the public**

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<sup>1</sup> .See Ameren Application, p.3.

<sup>2</sup> Id.

<sup>3</sup> Tr. Vol. 2, p. 151.

**welfare**, efficient facilities and substantial justice between patrons and public utilities. State ex rel. Laundry, Inc. v. Pub. Serv. Comm'n, 327 Mo. 93, 106, 34 S.W.2d 37, 42 (1931). (Emphases added.)

The Commission observed that the General Assembly broadly defined the Commission's jurisdiction in Section 386.250, RSMo., in Matter of Nature of Paging Serv., 21 Mo. P.S.C. (N.S.) 490 (Mo. P.S.C. Aug. 25, 1977). As a result, the Commission stated it should not apply a rigid, historical construction to its jurisdiction; rather, the Commission should read these terms to include those technological advances, which have occurred since the enactment of the Public Service Law. Id. Additionally, the Commission is obligated to exercise its jurisdiction over a particular service when the General Assembly has directed the Commission to exercise its regulatory control over the service, even though some factors may be present which undercut a pure "natural monopoly" justification for regulation. Id.

In the present case, the Commission should not apply a rigid or historical construction to its jurisdiction, but should instead read the applicable statutes to include EVCSs. Such a reading is consistent with the remedial nature of the Public Service Commission Law and will promote the public welfare, efficient electrical facilities, and substantial justice. Even though there has been some evidence that EV charging is not a pure natural monopoly, the Commission is nonetheless obliged exercise its jurisdiction over EV charging services since the General Assembly has directed it to exercise its regulatory control over the sale of electric service to the general public.

## **2. Public Policy**

**Are there public benefits realized from the installation of electric vehicle charging stations, specifically if the Commission were to approve Ameren Missouri's proposed pilot project?**

Yes, there are public benefits to be realized from the Commission approving Ameren Missouri's pilot project. As shown through the competent and substantial evidence of Ameren Missouri and the other proponents of its proposal, there are numerous public benefits that will be realized from the pilot project. The Supreme Court has stated, "... the very highest evidence of the public policy of any state is its statutory law, and, 'if there is legislation on the subject, the public policy of the state must be derived from such legislation.'" State ex rel. City of St. Louis v. Pub. Serv. Comm'n of Missouri, 335 Mo. 448, 459, 73 S.W.2d 393, 400 (1934). The Court has also stated that it is proper for the Commission to determine the public policy of the state with relation to public utilities:

By act of assembly, the Public Service Commission was the designated government agency to enforce its declared public policy, whether that policy [originated] by statute or was created by the commission. It is an arm of the state government, created for the benefit of the people as well as the utilities it in part controls. There has been placed under the regulation, supervision, and control of the commission generally all matters relating to rights, facilities, service, and other correlated matters of a public service company. State ex rel. & to Use of Cirese v. Ridge, 345 Mo. 1096, 1099–100, 138 S.W.2d 1012, 1014 (1940).

Accelerating electric vehicle adoption through utility participation in electric vehicle charging infrastructure can benefit electric utility customers whether or not they own an electric vehicle. Electric vehicle charging will increase electricity sales, which can lower electricity rates for all utility customers by diluting the utility's fixed costs of transmission and distribution if electric vehicle charging is well integrated into the electric power system.<sup>4,5</sup> One

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<sup>4</sup> Jester Rebuttal, p. 13 & 14.

<sup>5</sup> Hyman Rebuttal, p. 2.

way of integrating electric vehicle charging into the electric power system is by encouraging EV drivers to charge their EVs during off-peak hours through rate design (also known as “valley-filling”). Integration of EV charging through policies and rate designs that encourage valley-filling can result in the more efficient use of the electrical infrastructure Ameren Missouri already has, resulting in lower rates for all of its electric customers.

The general public will also benefit from the accelerated deployment of EVCS infrastructure and the adoption of EVs through improved air quality, resulting in improved public health. Driving EVs will improve air quality by reducing ground-level ozone and particulate matter, both of which can result in adverse health effects such as lung irritation, asthma, and heart problems.<sup>6</sup> National studies suggest that premature deaths due to vehicle emissions exceed those due to vehicle crashes by more than 50 percent, and estimate that Missouri annually suffers 1,192 premature deaths due to emissions from vehicles.<sup>7</sup> Vehicle electrification, even at Missouri’s current generation mix, can clearly reduce these emissions and their health effects.

The development of electric vehicle charging station infrastructure is consistent with state and federal law, as well as the recommendations of Missouri’s Comprehensive State Energy Plan (“CSEP”). On the state level, Missouri’s Alternative Fuel Infrastructure Tax Credit, codified in Section 135.710, RSMo. allows for a tax credit of up to the lesser of \$20,000 or 20 percent of total costs directly related to business purchases and installations of recharging equipment, including EVCSs, subject to appropriations.<sup>8</sup> Additionally, Section 414.400, RSMo. requires state agencies to use alternative fuels (such as electricity) for thirty percent of their motor fuel, in gasoline gallon equivalents. On the federal level, Missouri recently joined a select group of states with “Alternative Fuel Corridors” designated by the Federal Highway

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<sup>6</sup> Hyman Rebuttal, p. 6.

<sup>7</sup> Jester Rebuttal, p. 8.

<sup>8</sup> Id.



Administration under the Fixing America’s Surface Transportation (“FAST”) Act. The FAST Act was passed in to law by the U.S. Congress in 2015. Under the FAST Act, Alternative Fuel Corridors can be given one of two designations: “signage-ready” or “signage-pending”. A signage-ready corridor, in the case of EVs, means that there are currently public EVCSs along the route, which are 50 miles apart and five miles from the highway.<sup>9</sup> The I-70 route between Wentzville and Oak Grove is currently designated as signage-pending because of the lack of EVCSs in that area.<sup>10</sup> Ameren Missouri’s proposal to develop EVCSs along the Columbia to St. Louis metropolitan area portion of that corridor will support state and federal goals by moving that part of the corridor from “signage-pending” to “signage-ready.”<sup>11</sup>

The third recommendation of the CSEP, “Diversity and Security of Supply,” states: “Broadening the energy sources utilized and consumed in Missouri will make the state less reliant on imported energy, increase economic development, and provide a hedge against future price volatility. The state should make multiple efforts to diversify its energy portfolio, using existing processes and establishing new opportunities for discussion and planning.”<sup>12</sup> Diversifying the sources of energy used for transportation through EVCS deployment falls squarely within this goal.<sup>13</sup>

Despite the effects of fuel efficiency standards and recent increases in US oil production, the United States still imports approximately 25 percent of its oil.<sup>14</sup> The US Department of Energy found that, “... reliance on oil is the greatest immediate threat to US economic and national security.”<sup>15</sup> Since electricity can be produced using a wide variety of

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<sup>9</sup> Id.

<sup>10</sup> Id.

<sup>11</sup> Id.

<sup>12</sup> Hyman Rebuttal, p. 7.

<sup>13</sup> Id.

<sup>14</sup> Jester Rebuttal, p. 11.

<sup>15</sup> Id.

technologies and fuels, and all of these are largely domestic in practice, electrification will play a growing role in both efficiency and fuel diversification, which can reduce the United States' exposure to oil-related risks.<sup>16</sup>

The CSEP also states that transportation is the single largest energy use sector in the state of Missouri, and, as such, plays a significant role in Missouri's economy.<sup>17</sup> In 2012, statewide expenditures on transportation fuels totaled \$15 billion.<sup>18</sup> According to the US Energy Information Administration, greater than 80 percent of the cost of gasoline immediately leaves the local economy.<sup>19</sup> Using electricity (which can be locally or regionally sourced ) as fuel can reverse this trend and keep Missourians' hard-earned money in the local economy.<sup>20</sup> Additionally, electricity prices are more stable than oil prices, so vehicle electrification will reduce or eliminate the effects of oil price volatility on consumers increasing macroeconomic stability for the United States and for Missouri.<sup>21</sup>

The opponents of the EVCS pilot program have argued that allowing Ameren Missouri to install EVCSs and include the associated costs in rate base will be anticompetitive to the development of the EVCS market. Setting aside the legal arguments that the Commission is obligated to regulate the sale of electricity when it is sold by a public utility, there is competent and substantial evidence in the record that utility ownership of EVCS infrastructure can be done in a way that preserves opportunities for competition in EVCS services and avoids onerous regulation of third-party owners of EVCSs.<sup>22</sup> Competition can also be enabled by modifying Ameren Missouri's tariff sheets to allow an exemption from the prohibition against the resale of

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<sup>16</sup> Id.

<sup>17</sup> Id.

<sup>18</sup> Jester Rebuttal, p. 11 & 12.

<sup>19</sup> Jester Rebuttal, p. 12.

<sup>20</sup> Id.

<sup>21</sup> Jester Rebuttal, p. 13.

<sup>22</sup> Jester Surrebuttal, p. 5-7.

electricity and by determining how third-party EV charging providers could be allowed to sell electricity to drivers, potentially through the design of a wholesale service rate.<sup>23</sup> Laclede Gas Company's tariffs, which generally prohibit the resale of natural gas, have an explicit exemption for gas supplied for use as vehicle fuel.<sup>24</sup> Laclede Gas Company also has a specific tariffed rate for vehicular fuel.<sup>25</sup> Furthermore, it should be noted that EVCS deployment is not yet widespread along the route proposed by Ameren Missouri.<sup>26</sup> ChargePoint, an EVCS equipment provider, has no customers with publicly accessible EVCSs between Columbia and the St. Louis metropolitan area; as a result, Commission oversight is required to ensure that rates are just and reasonable for EV customers as the EV charging market in Missouri develops.<sup>27</sup>

While EV adoption and EVCS infrastructure development is consistent with existing public policy, EV adoption and EV charging infrastructure suffer from a "chicken-or-egg" market coordination problem that is best addressed through utility engagement in the accelerated development of charging infrastructure.<sup>28</sup> DE witness Mr. Parker J. Tinsley stated at the evidentiary hearing that the state of California is home to 46 percent of the registered EVs in the United States.<sup>29</sup> Mr. Tinsley indicated that the large number of EVs in California was due to the state's support for EVCS infrastructure development.<sup>30</sup> Mr. Tinsley further explained that the California Public Utilities Commission reversed its original decision to not allow public utilities to recover the costs of EVCSs in rates, and that following that reversal the number of EVCSs has grown exponentially.<sup>31</sup> He further stated that the California Public Utilities Commission recently

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<sup>23</sup> Hyman Rebuttal, p. 5.

<sup>24</sup> P.S.C. MO. No.5 Consolidated, Fifth Revised Sheet No. R-8, Laclede Gas Company, Effective May 31, 1997.

<sup>25</sup> P.S.C. MO No. 5 Consolidated, Twelfth Revised Sheet No. 11, Laclede Gas Company, Effective July 28, 2013.

<sup>26</sup> Hyman Rebuttal, p. 4.

<sup>27</sup> Id.

<sup>28</sup> Jester Rebuttal, p. 7.

<sup>29</sup> Tr. Vol. 4, p. 487.

<sup>30</sup> Tr. Vol. 4, p. 498.

<sup>31</sup> Tr. Vol. 4, p. 498.

approved public utility proposals to install several thousand charging EVCSs, which will allow EV drivers to charge their EVs virtually everywhere they go.<sup>32</sup> The Commission should act in this case to accelerate EVCS infrastructure development and EV deployment because Missouri utility engagement can only occur with the support of the Commission.<sup>33</sup> For the aforementioned reasons, the Commission should find that the public benefits that will be realized by Ameren Missouri's pilot project will further enhance existing public policy to promote alternative vehicle fueling infrastructure development and alternative fuel vehicle adoption in Missouri.

### 3. Rates

#### **Does Ameren Missouri's proposed tariff represent the proper rate design for its EV charging station pilot project?**

Yes, Ameren Missouri's proposed tariff represents a proper rate design for its EV charging station pilot program. The test for determining the propriety of a rate design is whether the rates are just, reasonable, and in the public interest. (See State ex rel. Laclede Gas Co. v. Pub. Serv. Comm'n, 600 S.W.2d 222, 223 (Mo.App. W.D. 1980), discussing Section 393.150(1), RSMo. provisions allowing the Commission to determine the propriety of new rates.) With regard to just and reasonable rates, Missouri's courts have held that, "Under the statutory standard of 'just and reasonable' it is the result reached not the method employed which is controlling. It is not theory but the impact of the rate order which counts." State ex rel. Missouri Water Co. v. Pub. Serv. Comm'n, 308 S.W.2d 704, 714 (Mo. 1957); citing, Federal Power Commission v. Hope Natural Gas Co., 320 U.S. 591, 64 S.Ct. 281, 88 L.Ed. 333.

Regarding the public interest, Missouri's courts have held that the public interest is a matter of policy to be determined by the Commission. State ex rel. Public Water Supply District v. Public Service Commission, 600 S.W.2d 147, 154 (Mo. App.1980). It is within the

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<sup>32</sup> Tr. Vol. 4, p. 499.

<sup>33</sup> Jester Rebuttal, p. 7.

discretion of the Commission to determine when the evidence indicates the public interest would be served. State ex rel. Intercon Gas, Inc. v. Public Service Com'n of Missouri, 848 S.W.2d 593, 597-598 (Mo. App.1993). The Commission has previously held that determining what is in the interest of the public is a balancing process. In the Matter of Sho-Me Power Electric Cooperative's Conversion from a Chapter 351 Corporation to a Chapter 394 Rural Electric Cooperative, Case No. EO-93-0259, Report and Order issued September 17, 1993, 1993 WL 719871 (Mo. P.S.C.). In making such a determination, the total interests of the public served must be assessed. Id.

Ameren Missouri is the only party to this proceeding that has performed a rate impact analysis of the proposed tariffed rates for the pilot program. Despite arguments to the contrary, the pilot program **does not** result in non-EVCS customers paying a subsidy to EVCS customers. First, EVCS customers will be charged \$0.20/kWh for Level 2-AC charging – well above the Company's summer energy charge for general residential customers (\$0.1208/kWh).<sup>34</sup> Second, the usage stimulated by the EVCSs would actually cover the EVCSs' annual fixed costs in their fifth year of their operation and contribute a net of \$1.9 million to fixed cost recovery by the 15th year of their operation.<sup>35</sup> Third, while non-EVCS residential customers would pay 11.3 cents annually for four years as a result of these EVCSs, non-EVCS customers would ultimately gain a net present value of \$3.63 over 15 years from the “downward pressure” placed upon rates from EV drivers.<sup>36</sup> These three considerations show that non-EVCS customers **will not** be subsidizing EVCS customers, since non-EVCS customers will be receiving a net benefit over the expected life of the EVCSs. Since EVCS customers will be paying cost-based rates that make a contribution to fixed cost recovery above the incremental cost of providing EVCS service over

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<sup>34</sup> Hyman Rebuttal, p. 3.

<sup>35</sup> Id.

<sup>36</sup> Id.

the expected life of the EVCS assets, the rate impact of the proposed EVCS tariff is just and reasonable.

As stated previously, the accelerated development of EVCS infrastructure and EV adoption in Missouri has a broad list of benefits. These benefits include increased energy security, economic development, and improved public health, as well as increased electricity sales for utilities and downward pressure on electric rates for utility customers. Accelerated development of EVCS infrastructure and EV adoption is truly a win-win-win for Missouri. Since Ameren Missouri's EVCS pilot program will produce benefits to customers, utilities and the general public of Missouri, the accelerated development of EVCS infrastructure and EV adoption is in the public interest.

Ameren Missouri and the proponents of the pilot program have provided competent and substantial evidence supporting the proposed tariffed rates. These rates will result in just and reasonable rates because their impacts will be just and reasonable as evidenced by the bill impact analysis performed by Ameren Missouri. The tariff rates will be in the public interest as the interests of all the public will be balanced because both EVCS and non-EVCS customers, Ameren Missouri, and the general public will accrue benefits as a result of the EVCS pilot program and the associated costs to Ameren Missouri and its customers are reasonable.

While Ameren Missouri is not seeking cost recovery of the costs associated with this pilot program in this case or its pending rate case, because the pilot program is a part of the Company's regulated utility business these costs will be eligible for recovery in a subsequent rate case; however, the Commission is not obligated to determine in this case if any of the pilot program costs should be recovered in future rates. At the hearing, Staff indicated that its position regarding the regulatory treatment of the costs and revenues associated with the EVCS pilot

program had changed since its pre-filed testimony, with Staff supporting above the line treatment for the EVCSs but stating that revenues should be imputed to the extent EVCS revenues do not cover program costs.<sup>37</sup> Based off of Staff's revenue imputation proposal, for as long as the pilot project costs exceed revenues there would not be any cost recovery by Ameren Missouri for its EVCS program, resulting in a potential revenue shortfall for the Company.<sup>38</sup> Staff's witness even went so far as to testify that Staff would not be required to show in a future rate case that the utility had acted unreasonably or imprudently in order to impute that shortfall. However, Staff's witness further stated that she could not recall of any instance in the last ten years where the Commission has imputed revenue to an investor-owned electric utility without first having evidence showing that the utility had acted unreasonably or imprudently<sup>39</sup>

Staff's basis for this novel regulatory treatment is that the EVCS pilot program would provide a service to anyone who drove an EV up to one of the proposed EVCSs, as opposed to being offered exclusively to Ameren Missouri's "captive customers," even though customers at the EVCS stations would, by virtue of their receiving service from Ameren Missouri, become Ameren Missouri customers. Staff also stated that requiring residential customers to pay 11.3 cents annually for 4 years to pay to support the EVCS pilot program would be unreasonable; however, Staff recently signed a stipulation and agreement, which was subsequently approved by the Commission, where the annual impact to residential customers of a pilot program would be approximately 42 cents per customer. In the Matter of the Application of Union Elec. Co. d/b/a Ameren Missouri for Permission & Approval & A Certificate of Public Convenience & Necessity Authorizing It to Offer A Pilot Distributed Solar Program & File Associated Tariff, EA-2016-0208, 2016 WL 7441690, at \*5 (Mo. P.S.C. Dec. 21, 2016). In the

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<sup>37</sup> Tr. Vol. 4, p. 380.

<sup>38</sup> Tr. Vol. 4, p. 382.

<sup>39</sup> Tr. Vol. 4, p. 386.

absence of any precedents supporting revenue imputation, and the fact that the amount in question is reasonable in relation to the rate impacts of a recently approved pilot program, the Commission should not prejudge the recoverability of any costs associated with this pilot program or deviate from the legal standards for disallowing cost recovery based on a showing of utility imprudence.

WHEREFORE, DE respectfully files its *Initial Post-Hearing Brief*.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been served electronically on all counsel of record this 17th day of February, 2017.

/s/ Alexander Antal

Alexander Antal