

## MEMORANDUM

**TO:** Missouri Public Service Commission Official Case File  
File No. EE-2019-0395 – In the Matter of the Application of  
Union Electric Company d/b/a Ameren Missouri for a Variance  
from the Provisions of Commission Rule 4 CSR 240-14 to Meet  
Unregulated Competition in a Subdivision in St. Charles  
County, Missouri.

**FROM:** Alan J. Bax - Engineering Analysis Department

/s/ Daniel I. Beck, PE 06/24/19      /s/ Jeffrey A. Keevil 06/24/19  
Engineering Analysis Dept./Date      Staff Counsel's Office/Date

**SUBJECT:** Staff Memorandum Recommending Approval of Application

**DATE:** June 24, 2019

### STAFF RECOMMENDATION

The Staff of the Missouri Public Service Commission (“Staff”) recommends that the Missouri Public Service Commission (“Commission”) approve the Application, Request For Waiver, and Motion For Expedited Treatment (“Application”) of Union Electric Company d/b/a Ameren Missouri (“Ameren Missouri”), which requests a variance from the provisions of the applicable sections of its tariff and Commission Rule 4 CSR 240-14, for good cause shown, in regard to its provision of electric service to a proposed new subdivision, to be known as Grantham Estates (“Grantham Estates”), 5015R Hwy P, Flint Hill, Missouri, 63385, in St. Charles County, Missouri. Ameren Missouri also seeks a variance from 4 CSR 240.4-017, which requires a sixty day notice be provided to the Secretary of the Commission prior to the filing of an intended case. Commission approval of this Application would authorize Ameren Missouri to provide, at a discount or with no charge, the related costs associated with a request for underground electric service by the developer of Grantham Estates pursuant to Ameren Missouri’s tariff entitled “Schedule of Rates for Electricity,” “Pilots, Variances and Promotional Practices,” “Unregulated Competition Waivers and Other Variances,” Schedule No. 6, Sheet No. 161 and 4 CSR 240-14. These costs would otherwise be the responsibility of the developer pursuant to Ameren Missouri’s tariff “General Rules

and Regulations,” “Distribution System Extensions,” “Underground Extensions,” “Residential Subdivision Extensions,” Schedule No. 6, 1<sup>st</sup> Revised Sheet No. 118. Staff also recommends the Commission approve the applicable revised section of Ameren Missouri’s tariff that is attached to the Application. Staff notes that the costs included in the Application are estimates and are not known at this time. Staff recommends the Commission note in its Order that no ratemaking treatment of this transaction is being considered/offered and that any effects of this transaction will be analyzed within the context of Ameren Missouri’s applicable general rate case.

### **OVERVIEW**

On June 14, 2019, Ameren Missouri filed the Application requesting a variance from its tariff and the Commission’s Utility Promotional Practices Rule (4 CSR 240-14) regarding the installation of underground electric service to Grantham Estates, a proposed subdivision to be built in St. Charles County, Missouri. Ameren Missouri is seeking a Commission decision by July 12, 2019.

On June 17, 2019, the Commission issued an *Order Providing Notice, Establishing Intervention Deadline, and Directing Response* in which it directed the Public Policy and Outreach office to send a notice to all parties of record in Ameren Missouri’s most recent rate case (ER-2019-0179), set an intervention deadline of June 24, 2019 for any proper person desiring to intervene in this case, and directed Staff to file a recommendation by June 24, 2019. This Order also identifies a deadline of June 25, 2019, for any party desiring to respond to Ameren Missouri’s Application and/or proposed tariff revision, or the Staff Recommendation.

Ameren Missouri is current on all assessment fees and annual report filings. Staff is not aware of any pending actions or unsatisfied judgments or decisions against Ameren Missouri in any state or federal agency or court involving customer service or rates occurring within three years of this filing. Staff is not aware of any other matter before the Commission that affects or is affected by this filing.

**DISCUSSION**

In its Application, Ameren Missouri asserts that it has been in discussions with the developer of Grantham Estates, Flint Hill Associates, LLC (“FHA LLC”), for two years in regard to delivering underground electric service. Grantham Estates is a proposed subdivision located at Mette Road and Hwy P in St. Charles County, Missouri, (physical address is 5015R Hwy P, Flint Hill, Missouri, 63385). The subdivision is purported to include 22 residential homes (single family dwellings), each exceeding 3,000 square feet, to be constructed on lots ranging in size from 9,000 to 16,500 square feet (an illustration of the planned development is included in the Application). Typically, a prospective developer would provide, at its cost, all trenching and the installation of a complete conduit system as its contribution to Ameren Missouri’s underground distribution system pursuant to Section III.J.-2.a of Ameren Missouri’s tariff.<sup>1</sup> This conduit system would include all materials necessitated in the provision of underground electric service including transformer pads, switchgear pads, pedestals, pulling boxes and other subsurface structures.

Ameren Missouri asserts in its Application that FHA LLC informed them that Cuivre River Electric Cooperative (“CREC”), a competing electric service provider, has offered to serve the development with underground electric system \*\* \_\_\_\_\_  
\_\_\_\_\_. \*\* Ameren Missouri states that it only knew of a possible competitor very recently (June 10, 2019). Attached to the Application is a letter addressed to Ameren Missouri from Alex Daake, the project manager for FHA LLC regarding the proposed Grantham Estates subdivision. In this letter, Mr. Daake states that \*\* \_\_\_\_\_  
\_\_\_\_\_. \*\* Furthermore, Mr. Daake indicates FHA LLC’s preference to have Ameren Missouri be its electric service provider. However, this would be contingent upon the ability of \*\* \_\_\_\_\_  
\_\_\_\_\_. \*\* Ameren

<sup>1</sup> Schedule of Rates for Electricity, General Rules and Regulations, Distribution System Extensions Underground Extensions, Residential Subdivision Extensions, Requirements of Applicant/Developer, Schedule No. 6, 1st Revised, Sheet No. 118.

Missouri mentions that it has facilities in the area capable of providing the requested service, emphasizing a recently installed Flint Hill substation.

CREC is not regulated by the Commission as to its rates, charges, terms of service, etc. and thus CREC may make such offers in attempting to persuade a potential developer in selecting them as its electric service provider. CREC currently provides electric service to nearby properties surrounding the proposed Grantham Estates subdivision, and owns an adjacent three phase distribution line, and is thus capable of providing underground electric service to the new proposed Grantham Estates subdivision.

Ameren Missouri has expressed a desire to have a Commission decision by July 12, 2019, in order for the developer, FHA LLC, to maintain its scheduled progress. Thus, pursuant to 4 CSR 240.2.080(14), the section of the Commission's Rules that addresses motions for expedited treatment, Ameren Missouri wishes, as asserted in its Application, to avoid the possibility that FHA LLC will select CREC as its electric service provider.

The portion of Ameren Missouri's tariff entitled "Schedule of Rates for Electricity," "Pilots, Variances and Promotional Practices," "Unregulated Competition Waivers and Other Variances," Schedule No. 6, Sheet No. 161 allows Ameren Missouri to waive all or part of any charges associated with extensions, such as the current Application, upon requesting and receiving authorization for such a waiver from the Commission for good cause shown. Pursuant to 4 CSR 240-2.06 and 4 CSR 240-14, Ameren Missouri has filed this current Application, proffering that approving this waiver request promotes a more efficient use of the Company's distribution system given that Ameren Missouri has an existing distribution line routed in the area and has installed a new Flint Hill substation recently, which provides ample capacity to serve the proposed Grantham Estates. In support of its Application, Ameren Missouri proffers that synergies can be gained by pairing its provision of electric service in tandem with its gas service that FHA LLC has also requested. In addition, the estimated revenues to be gained from providing service to Grantham Estates will purportedly cover the estimated associated

expenses and thus demonstrates that granting a waiver, as requested in the Application, is economically justified.

As the Commission has noted in past cases involving similar requests, it is highly aware of the competition that can exist between cooperatives (like CREC) and regulated utilities (like Ameren Missouri). The Commission has identified that approval of such requests should promote the public interest. In others, the Commission considered whether its decision would contribute to, or result in, a duplication of facilities, a factor that is usually preferred to be limited and is often cited in territorial agreements entered into between competitive electric service providers. The Commission generally encourages competing providers to enter into territorial agreements because such agreements typically promote a more efficient use of applicable electric facilities. In Case No. EO-93-166, a factor the Commission noted as contributing to its approval of a waiver from utility promotional practices along the “Highway T corridor” was that the requesting utility (Union Electric) already had a distribution line installed along the entire length of the corridor. Thus, approving Union Electric’s request for a waiver in that case did not promote additional duplication of facilities. The Commission also explained that not approving the waiver request posed a risk to the investment made by Union Electric, given the otherwise competitive advantage held by Union Electric’s competitor. Nevertheless, the Commission required that Union Electric demonstrate that its entire customer base would benefit from approving its waiver request, in addition to the recognized benefit to itself pursuant to 4 CSR 240-14.030(1).

In its Order approving a similar variance and waiver request concerning Case No. EE-2013-0511, the Commission determined what “constitutes good cause is that the reason or legal excuse given must be real not imaginary, substantial not trifling, and reasonable not whimsical.” In granting the request in that case, the Commission identified utility facilities that were already in place and were sufficient to provide the desired service that prevented duplication and enabled a more efficient use of the existing

system, and promoted the Commission's preference of locating all newly installed electric corporation-owned residential subdivision distribution facilities underground.<sup>2</sup>

In applying these previous Commission decisions to the immediate case, given that the proposed subdivision lies in an unincorporated portion of St. Charles County, Grantham Estates is a project that is subject to competition for the requested underground electric service between Ameren Missouri and CREC. Each electric service provider has sufficient capability to serve the proposed subdivision from nearby existing facilities. Thus, approving Ameren Missouri's request would not result in a duplication of facilities and actually would be promoting a more efficient use Ameren Missouri's facilities as proffered by Ameren Missouri in its Application.

Due to the expedited nature of the request, Staff was not able to conduct a thorough investigation of this Application. Staff has attempted unsuccessfully to contact Ameren Missouri regarding the information provided in its Application. If the values of estimated expenses and potential revenues presented in the Application are correct, then the overall customer base would realize a benefit from the requested variances, not just the developer and Ameren Missouri. However, due to the limited time to review the Application, Staff was not able to thoroughly review the estimated expenses and revenues.

### **CONCLUSION**

As previously noted, Staff recommends that the Commission approve the Application of Ameren Missouri, granting a variance from its tariff Section III.J.-2.a and from the Commission's utility promotional practices rule 4 CSR 240-14, which would authorize Ameren Missouri to provide the requested underground electric system to a proposed new subdivision in an area of unincorporated St. Charles County, Missouri, a subdivision to be known as Grantham Estates, and consider the request to be in the public interest. Ameren Missouri has existing distribution facilities sufficient to provide service to the proposed new subdivision location. Therefore, granting the request for the variance in the immediate case will not lead to a duplication of facilities; rather, it will

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<sup>2</sup> Commission Rule 4 CSR 240-23.010(10).

allow for a more efficient use of Ameren Missouri's existing facilities. CREC, a competitor of Ameren Missouri's in providing underground electric service for the Grantham Estates, is able to offer an incentive to FHA LLC of installing the electric system as an enticement for FHA LLC to select it as the provider of the desired electric service. Pursuant to its tariff, Ameren Missouri is allowed to offer a similar incentive upon seeking and receiving a waiver from the Commission in regard to the applicable charges. Absent this waiver, FHA LLC has reportedly indicated to Ameren Missouri that it plans on selecting CREC as its electric service provider to Grantham Estates, despite its stated preference for Ameren Missouri. Ameren Missouri's request for expedited treatment is reasonable, given the assertion that FHA LLC needs to have an electric service provider selected by July 12, 2019 to enable it to remain on its current schedule. In addition, Staff recommends the Commission approve the associated section of Ameren Missouri's revised tariff attached to the Application.

Staff is not making a recommendation as to the effect approving this transaction will have on Ameren Missouri rates. The capital costs and projected revenues noted in the Application are estimated and could only be properly analyzed when known. Staff suggests that the Commission note in any order approving the Application that it is making no ratemaking determination in this matter and that any effect of this transaction will be addressed in Ameren Missouri's applicable general rate case proceeding.

**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            )     File No. EE-2019-0395  
For a Variance from the Provisions of            )  
Commission Rule 4 CSR 240-14 to Meet            )  
Unregulated Competition in a Subdivision in     )  
St. Charles County, Missouri                    )

**AFFIDAVIT OF ALAN J. BAX**

State of Missouri    )  
                              ) ss  
County of Cole        )

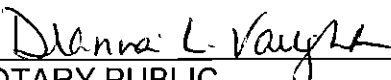
**COMES NOW** Alan J. Bax, and on his oath declares that he is of sound mind and lawful age; that he contributed to the attached *Staff Recommendation in Memorandum form*; and that the same is true and correct according to his best knowledge and belief.

Further the Affiant sayeth not.

  
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Alan J. Bax

**JURAT**

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 24<sup>th</sup> day of June, 2019.

  
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NOTARY PUBLIC

DIANNA L. VAUGHT Notary Public - Notary Seal State of Missouri Commissioned for Cole County My Commission Expires: June 28, 2019 Commission Number: 15207377
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