

**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 Authority to Sell)	<u>Case No. EO-2014-0149</u>
and Repurchase Coal and Lease Property)	

**STAFF RECOMMENDATION TO GRANT WITH CONDITIONS
AUTHORITY TO SELL AND REPURCHASE COAL AND TO LEASE PROPERTY**

COMES NOW the Staff of the Missouri Public Service Commission ("Staff") and, for its recommendation that the Commission, with conditions, authorize Union Electric Company d/b/a Ameren Missouri to sell and repurchase coal and lease property, states:

1. On November 19, 2013, Ameren Missouri filed an application with this Commission seeking the authority required by § 393.190.1, RSMo. for it to sell coal and lease a portion of its property located at its Labadie Energy Center to Larkwood Energy, LLC. It also, pursuant to 4 CSR 240-2.080(14), requested the Commission act on the application expeditiously, but by no later than January 1, 2014.

2. On November 20, 2013, the Commission set an intervention date and ordered Staff to file its recommendation on the application by December 11, 2013. No one has sought to intervene.

3. Section by § 393.190.1, RSMo., provides:

No gas corporation, electrical corporation, water corporation or sewer corporation shall hereafter sell, assign, lease, transfer, mortgage or otherwise dispose of or encumber the whole or any part of its franchise, works or system, necessary or useful in the performance of its duties to the public, nor by any means, direct or indirect, merge or consolidate such works or system, or franchises, or any part thereof, with any other corporation, person or public utility, without having first secured from the commission an order authorizing it so to do. Every such sale, assignment, lease, transfer, mortgage, disposition, encumbrance, merger or consolidation made other than in accordance with the order of the commission authorizing same shall be void. The permission and approval of the commission to the exercise of a franchise or permit under this chapter, or the sale, assignment, lease, transfer, mortgage or other

disposition or encumbrance of a franchise or permit under this section shall not be construed to revive or validate any lapsed or invalid franchise or permit, or to enlarge or add to the powers or privileges contained in the grant of any franchise or permit, or to waive any forfeiture. Any person seeking any order under this subsection authorizing the sale, assignment, lease, transfer, merger, consolidation or other disposition, direct or indirect, of any gas corporation, electrical corporation, water corporation, or sewer corporation, shall, at the time of application for any such order, file with the commission a statement, in such form, manner and detail as the commission shall require, as to what, if any, impact such sale, assignment, lease, transfer, merger, consolidation, or other disposition will have on the tax revenues of the political subdivisions in which any structures, facilities or equipment of the corporations involved in such disposition are located. The commission shall send a copy of all information obtained by it as to what, if any, impact such sale, assignment, lease, transfer, merger, consolidation or other disposition will have on the tax revenues of various political subdivisions to the county clerk of each county in which any portion of a political subdivision which will be affected by such disposition is located. Nothing in this subsection contained shall be construed to prevent the sale, assignment, lease or other disposition by any corporation, person or public utility of a class designated in this subsection of property which is not necessary or useful in the performance of its duties to the public, and any sale of its property by such corporation, person or public utility shall be conclusively presumed to have been of property which is not useful or necessary in the performance of its duties to the public, as to any purchaser of such property in good faith for value.

4. In its memorandum attached as Appendix A, Staff presents its recommendation, and basis therefore, that the Commission, subject to certain conditions, authorize Ameren Missouri to sell coal to Larkwood Energy and lease site space at its Labadie Energy Center so that Larkwood can refine the coal before Ameren Missouri burns it to reduce NO_x and, SO₂ or mercury emissions. As Staff explains in its memorandum, Ameren Missouri, and its customers, will benefit by an anticipated reduction in NO_x and, SO₂ or mercury emissions as well as the payments Larkwood will make and, therefore, the proposed sales and lease are not detrimental to the public interest. As Staff also explains in its memorandum, Larkwood Energy will be using the same Chem-Mod process that Bluffington Partners, LLC is using at Ameren Missouri's Rush Island Power Plant. In Case No. EO-2012-0146, the Commission gave

Ameren Missouri similar authority to sell coal and lease property at its Rush Island Energy Center that it is seeking here.

5. Staff recommends the Commission impose the same type of conditions on its authorization here that it did in Case No. EO-2012-0146 (and in Case No. EA-2013-0502):

a.) No ratemaking determination is being made in this order relative to the sale of coal and the lease of a portion of the property of Ameren Missouri at the Labadie Energy Center over the term of the transaction.

b.) No ratemaking determination is being made in this order regarding the exclusion of the per-ton coal yard services fee in the Company's FAC.

c.) If Ameren Missouri decides to suspend, terminate or otherwise modify the terms of the transaction agreements, the Company will notify the Commission and the parties of the changes by filing a notice with the Commission as soon as practical, once the decision has been made to take the action.

6. Because the sooner Larkwood Energy begins refining coal at Ameren Missouri's Labadie Energy Center the sooner emissions are reduced—to the benefit of its ratepaying customers—Staff believes Ameren Missouri has established that the Commission should expedite acting on its application.

7. Ameren Missouri states in its application that the proposed coal sales and property lease should have no impact on the tax revenues of the political subdivision (Franklin County) where the property is located. As quoted above, § 393.190.1, RSMo directs the Commission to send a copy of all information obtained by it as to what, if any, impact a sale, lease or other disposition will have on the tax revenues of the political subdivisions affected by such disposition to the county clerk of each county in which any portion of an affected political subdivision is located.

8. Staff canceled a Labadie Energy Center site visit scheduled December 6, 2013, to view Larkwood Energy's activities there and rescheduled it for December 13, 2013. Staff plans to file a supplement to its memorandum in this case to report on what

it observes there related to this case. Staff anticipates the site visit will have no impact on its recommendation.

WHEREFORE, Staff recommends that the Commission issue an order authorizing Union Electric Company d/b/a Ameren Missouri to sell and repurchase coal and lease property as requested in its application subject to the conditions set out in paragraph 5 above and in its memorandum attached as Appendix A.

Respectfully submitted,

/s/ Nathan Williams_____

Nathan Williams
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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 11th day of December, 2013.

/s/ Nathan Williams_____

MEMORANDUM

TO: Missouri Public Service Commission Official Case File No. EO-2014-0149, In the Matter of the Application of Union Electric Company d/b/a Ameren Missouri for Authority to Sell and Repurchase Coal and Lease Property

FROM: Jerry Scheible, P.E., Utility Regulatory Engineer- Engineering Analysis

/s/ Daniel I. Beck / 12/11/2013 /s/ Nathan Williams / 12/11/2013
Engineering Analysis / Date Staff Counsel's Department / Date

SUBJECT: Staff Recommendation to Grant Requested Authority Subject to Conditions.

DATE: December 11, 2013

OVERVIEW

On November 19, 2013, Union Electric Company d/b/a Ameren Missouri (“Ameren Missouri” or “Company”) filed an Application and Motion for Expedited Treatment with the Missouri Public Service Commission seeking authority to sell coal, and lease a small portion of its property at the Labadie Energy Center (“Labadie plant”), as part of a program to utilize refined coal in order to lower costs and reduce emissions. The Commission ordered the Staff of the Missouri Public Service Commission (“Staff”) to file a recommendation regarding Ameren Missouri’s Application no later than December 11, 2013.

BACKGROUND

The Application seeks Commission approval pursuant to Section 393.190.1 RSMo. for the sale of coal from Ameren Missouri’s coal pile at the Labadie plant to Larkwood Energy, LLC (“Larkwood”). The sales would commence soon after the Commission approves this Application and will continue until September 13, 2021, which is the date that federal refined coal tax credits end. Larkwood will refine the coal using a proprietary process (known as

“Chem-Mod”) designed to reduce emissions from the coal, and then resell the coal back to Ameren Missouri at the same price for use at the plant. In addition, Ameren Missouri seeks authority to lease two small portions of its plant site to Larkwood so that Larkwood can place two coal refinement facilities on site to serve during the term of this transaction. One facility will be placed so that it serves Units One and Two of the Labadie Plant and the second facility will be placed so that it serves Units Three and Four of the plant. The Application also seeks expedited treatment of this case to take advantage of the tax benefits, which will begin when the equipment commences operation.

The Application states the transaction is very similar to transactions that the Commission approved in File Nos. EO-2012-0146 and EA-2013-0502. While each Application requests approval to sell coal and lease a small portion of an Ameren Missouri plant property as part of a program to utilize refined coal, the Applications are not identical in their respective requests. The subject Application is for the Labadie Energy Center location, whereas the previous Applications were for the Rush Island Power Plant (Rush Island) and Sioux Energy Center (Sioux) locations, respectively. Further, the subcontractor who will operate the refining process in the subject Application is Larkwood, whereas the subcontractors in the previous Applications were Bluffington Partners, LLC (BP) and GS RC Sioux, LLC (GC RC), respectively. The previous Applications and corresponding Orders also contained conditions related to an Option Agreement for Ameren Missouri to purchase membership interest from the subcontractor operating the refining process, which is not included as part of the subject Application.

The refining process proposed in the subject Application is known as Chem-Mod, which is the same process proposed in the Rush Island Application. The process proposed at the Sioux location was known as Cyclean. The difference being due to the fact that the Sioux location plant operates utilizing a cyclone boiler design, whereas the Rush Island and Labadie plants operate utilizing similar pulverized coal boiler designs.

The Application requests that the Commission act as soon as possible, and before January 1, 2014, which is presumed to be the desired start of operation date. The Application further states that, due to limitations in federal tax laws, the end of operation date will be December 31, 2021.

The Application states that Larkwood is responsible for demonstrating test results to ensure compliance with Internal Revenue Code Section 45, which authorizes a tax credit for the use of “refined coal.” Per the Application, tax credits are available if during the required testing there is at least a 20% reduction in nitrogen oxide (“NO_x”) emissions and at least a 40% reduction in either sulfur dioxide (“SO₂”) or mercury emissions. In order to comply with the applicable Internal Revenue Code provisions, the coal must be sold to a coal refiner, refined, and then bought back by Ameren Missouri for use in power generation. Larkwood is also responsible for all costs associated with the process including the cost of refinement equipment, labor, materials, and testing.

Ameren Missouri will receive monthly payments from Larkwood for the site license fee as well as a fee for coal yard services per ton of coal refined, with annual inflation index adjustments applicable to each payment beginning in 2015. Ameren Missouri will pay no capital or other costs for the installation or operation of the refining facilities.

DISCUSSION

Staff agrees with the Company that the proposed transaction must meet the “not detrimental to the public interest” standard and the information provided indicates that the project will result in benefits to ratepayers. The benefits will be an expected reduction of mercury, nitrogen oxide and sulfur dioxide emissions and that the payments made by Larkwood will offset plant operation and maintenance expenses at the Labadie plant. Similar technology was implemented at Ameren’s Rush Island facility in 2012 and the results have been favorable.

The Application states that the transaction and lease of property should have no impact upon the tax revenues of the political subdivision in which the assets are located, which satisfies Section 393.190.1 RSMo. requirements.

The Commission imposed certain conditions in the Orders granting the Applications in File Nos. EO-2012-0146 and EA-2013-0502. The subject Application proposes similar conditions, and Staff recommends the Commission approve the sale and lease contingent upon those conditions, as follows:

- a.) No ratemaking determination is being made in this order relative to the sale of coal and the lease of a portion of the property of Ameren Missouri at the Labadie Energy Center over the term of the transaction.
- b.) No ratemaking determination is being made in this order regarding the exclusion of the per-ton coal yard services fee in the Company’s FAC.
- c.) If Ameren Missouri decides to suspend, terminate or otherwise modify the terms of the transaction agreements, the Company will notify the Commission and the parties of the changes by filing a notice with the Commission as soon as practical, once the decision has been made to take the action.

STAFF RECOMMENDATION

Staff scheduled a site visit on December 6, 2013, to the Labadie plant to further review the sale and lease as proposed in the Application. The site visit was postponed due to inclement weather and has been rescheduled for December 13, 2013. Staff does not believe that the site visit will alter Staff's Recommendation but intends to file an update after the site visit to report on the findings.

Staff recommends that the Commission find, subject to the three conditions that Staff proposes above, that granting the Application is not detrimental to the public interest per Section 393.190.1 RSMo. Staff also recommends that the Commission grant the Company's request for expedited treatment pursuant to 4 CSR 240-2.080(14).

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In the Matter of the Application of Union)
Electric Company d/b/a Ameren Missouri)
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Case No. EO-2014-0149

AFFIDAVIT OF JERRY SCHEIBLE, P.E.

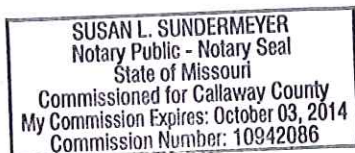
STATE OF MISSOURI)
) ss
COUNTY OF COLE)

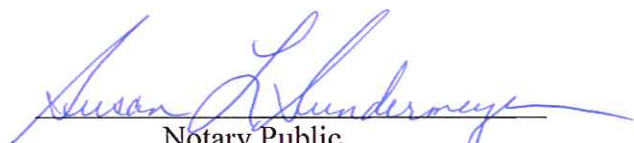
Jerry Scheible, P.E., of lawful age, on oath states: that he participated in the preparation of the foregoing Staff Recommendation in memorandum form, to be presented in the above case; that the information in the Staff Recommendation was given by him; that he has knowledge of the matters set forth in such Staff Recommendation; and that such matters are true to the best of his knowledge and belief.



Jerry Scheible, P.E.

Subscribed and sworn to before me this 11th day of December, 2013.





Notary Public