

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Cancellation of the Certificate of)
Convenience and Necessity Originally Approved in) **File No. ED-2019-0309**
File No. EA-2005-0180 and the LTS Rate Schedule)

ORDER DIRECTING NOTICE, ESTABLISHING TIME TO INTERVENE, AND DIRECTING STAFF RECOMMENDATION

Issue Date: April 12, 2019

Effective Date: April 12, 2019

On April 12, 2019, Union Electric Company d/b/a Ameren Missouri filed an application asking the Commission to cancel the Certificate of Convenience and Necessity granted to Ameren Missouri in 2005 applicable to the property formerly occupied by the aluminum smelter owned by Noranda and now occupied by the aluminum smelter owned by Magnitude 7 Metals, LLC. Ameren Missouri also asks the Commission to cancel its Large Transmission Service (LTS) rate schedule under which Noranda was the only qualifying customer.

The Commission will give notice of the application to potentially interested parties, and will set a date for intervention of proper parties. The Commission will also direct its Staff to file a recommendation regarding the application.

THE COMMISSION ORDERS THAT:

1. The Commission's Data Center shall provide notice of this order and the application to Magnitude 7 Metals, and to each party to Ameren Missouri's most recent general rate case, File ER-2016-0179.
2. Any person or entity wishing to intervene in this matter shall file an application to do so no later than May 2, 2019.

3. The Commission's Staff shall file a recommendation regarding Ameren Missouri's application no later than June 12, 2019.

4. This order shall be effective when issued.



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
under Section 386.240, RSMo 2016.

Dated at Jefferson City, Missouri,
on this 12th day of April, 2019.

In the Matter of the Cancellation of the)
Certificate of Convenience and Necessity) File No. ED-2019-_____
Originally Approved in File No. EA-2005-0180)
and the LTS Rate Schedule.)

COMES NOW Union Electric Company d/b/a Ameren Missouri ("Company," "Ameren Missouri," or "Applicant"), pursuant to 4 CSR 240-2.060 and 4 CSR 240-4.017(1), and hereby submits to the Missouri Public Service Commission ("Commission") its Application to cancel the Certificate of Convenience and Necessity ("CCN") granted by the Commission in 2005 and applicable to the property on which the Magnitude 7 Metals, LLC ("M7M") aluminum smelter is located (hereinafter referred to as the "Smelter") and requests a waiver of the 60-day notice requirement of 4 CSR 240-4.017(1). In support of its Application and waiver request, Ameren Missouri states as follows:

1. Union Electric Company is a Missouri corporation doing business under the fictitious name of Ameren Missouri, in good standing in all respects, with its principal office and place of business located at One Ameren Plaza, 1901 Chouteau Ave., St. Louis, Missouri 63103. Applicant is engaged in providing electric and gas utility services in portions of Missouri as a public utility under the jurisdiction of the Commission. There is already on file with the Commission a certified copy of Applicant's Articles of Incorporation (See Case No. EA-87-105), and Applicant's Fictitious Name Registrations as filed with the Missouri Secretary of State's Office (See Case Nos. GN-2011-0070 and EN-2011-0069). Said documents are incorporated herein by reference and

made a part hereof for all purposes. A Certificate of Corporate Good Standing for Applicant is attached as Schedule A.

2. Filings, notices, orders and other correspondence and communications concerning this Application should be addressed to undersigned counsel and to:

Thomas M. Byrne
Senior Director Regulatory Affairs
Ameren Missouri
1901 Chouteau Avenue
P.O. Box 66149
St. Louis, MO 63166-6149
314-554-2514
tbyrne@ameren.com

3. Ameren Missouri has no pending action or final unsatisfied judgment or decision against it from any state or federal agency or court which involves customer service or rates, which action, judgment, or decision has occurred within three years of the date of this Application.

4. Applicant has no overdue annual report or assessment fees.

II. FACTS

5. In late 2004, Ameren Missouri entered into an agreement with Noranda Aluminum, Inc. (“Prior Customer”) under which Ameren Missouri would provide regulated retail electric service to the Prior Customer for a term of 15 years, subject to obtaining the required CCN to expand Ameren Missouri’s service territory to encompass the property that is now owned by M7M in New Madrid County, Missouri.

6. Ameren Missouri filed an application for a CCN and for approval of a new rate schedule, the Large Transmission Service (“LTS”) rate schedule,¹ which would allow service to be provided to the Prior Customer.

¹ File No. EA-2005-0180.

7. The parties to File No. EA-2005-0180 thereafter filed a Unanimous Stipulation and Agreement which called for issuance of the requested CCN and approval of an LTS rate schedule, which by agreement had been modified in certain respects from the LTS rate schedule filed when the case was initiated.

8. Ameren Missouri began providing retail electric service to the Prior Customer on June 1, 2005.

9. The CCN for the property on which the Smelter is located is unique in several respects. First, it certifies a discrete tract of land owned by just one customer, which is described in a metes and bounds description developed by Prior Customer specifically for the CCN application. Second, the property on which the Smelter is located is not electrically connected to Ameren Missouri's transmission or distribution system. Instead, Ameren Missouri delivered power (including Prior Customer's demand and associated losses) to a delivery point where Ameren Missouri's system interconnects with Associated Electric Cooperative, Inc.'s ("AECI") transmission system. AECI then wheeled the power provided by Ameren Missouri to the Smelter under a separate transmission service agreement between Prior Customer and AECI to which Ameren Missouri was not a party. The power was metered at the Smelter and paid for by Prior Customer under the LTS rate schedule. Another unique aspect of the CCN for the property on which the Smelter is located is that because of the nature of the operations conducted there, its owner has rights no other electric customer in the state of Missouri has: to choose to cease taking electric service from its Commission-certificated provider (Ameren Missouri here) and to take electric service instead from another provider of its choice, all as provided for in Section 91.026, RSMo. (2016).

10. Except for a material curtailment caused when a severe ice storm downed AECI's transmission lines resulting in damage to the Smelter's operations, Prior Customer essentially took service from Ameren Missouri at or near full load from 2005 through early 2016. At that time, Prior Customer filed bankruptcy and ceased smelting operations.

11. Thereafter (in September 2016) and with the approval of the bankruptcy court, the assets constituting the Smelter were sold to M7M. After the Smelter closed, and continuing after its assets were sold to M7M, the property on which the Smelter is located continued to take a small amount of power (e.g., for lighting, heating/cooling of offices to the extent employees still worked at the Smelter) from Ameren Missouri, but smelting operations continued to be shuttered.

12. In November 2017, M7M announced plans to re-start the Smelter.

13. At the request of M7M, M7M ceased taking electric service from Ameren Missouri effective March 19, 2018. See Exhibit A hereto.

14. As noted, in Ameren Missouri's letter confirming M7M's request to cease taking regulated service from Ameren Missouri (Exhibit B hereto), M7M had the right to make such a request and Ameren Missouri was obliged to comply with it under Section 91.026, which in effect gives aluminum smelters in Missouri a right to exercise retail choice in deciding upon the smelter's electric service provider.

15. It is the Company's understanding that effective March 19, 2018, M7M began taking service for the Smelter from AECI under a multi-year contract.

16. The Smelter's load is no longer part of Ameren Missouri's load for any purpose. It is no longer included as part of Ameren Missouri's Integrated Resource Planning and Ameren Missouri no longer has the permission of the Midcontinent Independent System Operator, Inc.

(“MISO”) to include the Smelter’s load in Ameren Missouri’s Network Integration Transmission (“NITS”) agreement.

17. As the attached affidavit from M7M CEO Robert Prusak indicates, M7M has no objection to cancellation of the CCN and the related rate schedule. The Affidavit is attached as Exhibit C hereto.

III. DISCUSSION OF RELIEF REQUESTED

18. The certification of the land on which the Smelter is located and establishment of the LTS rate schedule in 2005 was a unique occurrence driven by the circumstances existing at the time, including the desire of Prior Customer to be served as a Company customer. The Commission, in reliance on the unanimous agreement of the parties, determined issuing the CCN and establishing the LTS rate schedule was necessary or convenient for the public service based on those circumstances and the long-term agreement between the Company and Prior Customer entered into at that time. As explained above, those circumstances and that agreement no longer exist.

While Ameren Missouri did not “abandon” the land on which the Smelter is located, it has been said that the “standard generally utilized by the Commission in abandonment [of service] cases is the converse of that applied in the grant of a certificate of public convenience and necessity: the public convenience and necessity no longer require the operation of the service in question.” *In re: Kansas City Power & Light Co.*, 88 P.U.R.^{4th} 390 (Mo. PSC 1987). Such a standard makes sense on these facts as well. There is no need for Ameren Missouri to serve the Smelter; indeed, it is being served by AECI today and, given Section 91.026, the Smelter’s owner has the right to obtain power from whomever it wants regardless of the existence or lack of existence of a service territory.

19. The Commission has recognized that its power to cancel a CCN is necessarily implied by the powers granted it in Chapters 386 and 393, RSMo. *In re: Cancellation of CCN and*

Tariff of Southwest Village Water Company, File No. WD-2007-0300 (Eff. Apr. 5, 2007). In that case, the Staff advised the Commission that it need not hold a hearing if, after proper notice and opportunity to intervene, a hearing is not requested (*citing State ex rel. Deffenderfer Enterprises, Inc. v. Pub. Serv. Comm'n*, 776 S.W.2d 494 (Mo. App. W.D. 1989)).

IV. REQUEST FOR WAIVER OF 60-DAY NOTICE REQUIREMENT

20. On July 23, 2018, Ameren Missouri filed a 60-day notice pursuant to 4 CSR 240-4.017(1) indicating that it expected to make a filing to cancel the CCN and LTS rate schedule discussed above. Due to unanticipated delays in completing all documentation needed to support the application, the filing was not made within the 180-day effective period of that notice (which ended on January 19 of this year). The docket in which that 60-day notice was filed was then closed. The documentation needed to file this application was recently completed and this filing followed.

21. Subsection (D) of the 60-day notice rule contemplates waivers of the 60-day notice for good cause and specifically indicates that “a verified declaration from the filing party that it has had no communication with the office of the commission within the prior one hundred fifty (150) days regarding any substantive issue likely to be in the case” constitutes good cause. The verification of Ameren Missouri Vice-President Warren Wood appearing at the end of this application so states. Consequently, the Company requests a waiver of the 60-day notice requirement.

WHEREFORE, Ameren Missouri respectfully requests the Commission issue its order waiving the above-referenced 60-day notice requirement, cancelling the CCN granted in File No. EA-2005-0180 and the Company’s LTS rate schedule (Mo. PSC Schedule No. 6, 3rd Revised Sheet No. 62, 1st Revised Sheet Nos. 62.1 and 62.2 and Original Sheet Nos. 62.3 and 62.4), and authorizing it to make the other necessary conforming changes to its Schedule No. 6 (including

references in the table of contents and the listing of the area in question as part of its service territory).

Respectfully submitted,

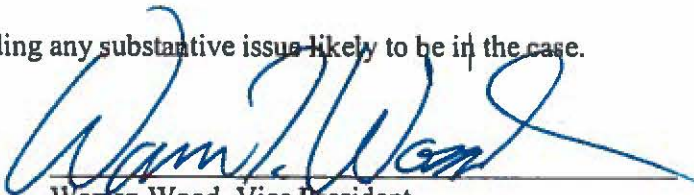
/s/ James B. Lowery

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AmerenMOService@ameren.com

VERIFICATION

The undersigned, being first duly sworn and upon his oath, hereby states that the foregoing *Application and Request for Waiver of 4 CSR 240-4.017(1)* is true and correct to the best of his knowledge, information, and belief. The undersigned further states that neither the Company nor anyone on its behalf has had any communication with the Office of the Commission within the prior one hundred fifty (150) days regarding any substantive issue likely to be in the case.

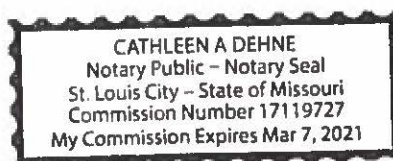


Warren Wood, Vice President,
Legislative & Regulatory Affairs
Union Electric Company d/b/a Ameren Missouri

Subscribed and sworn before me this 11th day of April, 2019.



Notary Public



CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served on the Staff of the Commission and the Office of the Public Counsel via electronic mail (e-mail) on this 12th day of April, 2019.

/s/ James B. Lowery
James B. Lowery

STATE OF MISSOURI



John R. Ashcroft
Secretary of State

CORPORATION DIVISION
CERTIFICATE OF GOOD STANDING

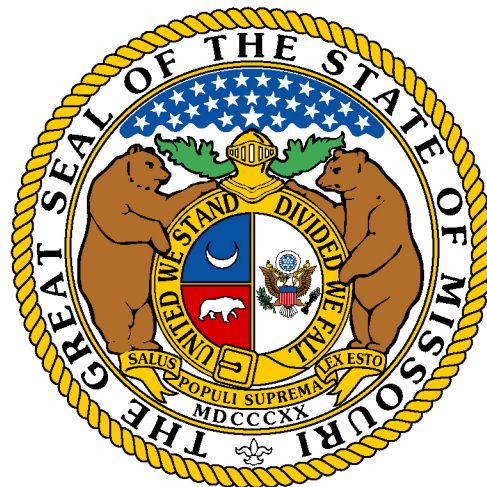
I, JOHN R. ASHCROFT, Secretary of State of the State of Missouri, do hereby certify that the records in my office and in my care and custody reveal that

UNION ELECTRIC COMPANY
00040441

was created under the laws of this State on the 21st day of November, 1922, and is in good standing, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I hereunto set my hand and cause to be affixed the GREAT SEAL of the State of Missouri. Done at the City of Jefferson, this 31st day of January, 2018.


Secretary of State



Certification Number: CERT-01312018-0021



Magnitude 7 Metals, LLC

Ameren Missouri

St. Louis, MO 63179-035

March 13, 2018

RE: Magnitude 7 Metals, LLC.
391 St. Jude Industrial Park
New Madrid, MO 63869
Account: 0393069052

To Whom It May Concern:

Magnitude 7 Metals, LLC, requests at this time services be disconnected effective, March 19, 2018. If you have any questions regarding this request, please contact the undersigned Steve F Rusche at 573.521.9141

Thank you for your time and help with this disconnection.

Sincerely,

Steve F. Rusche
COO, Magnitude 7 Metals, LLC
steve.rusche@magnitude7metals.com
573.521.9141



March 16, 2018

Mr. Steve F. Rusche
COO, Magnitude 7 Metals, LLC
391 St. Jude Park
Marston, MO 63866

Via U.S. Mail and E-mail: steve.rusche@magnitude7metals.com

Re: Union Electric Company d/b/a Ameren Missouri Service

Dear Mr. Rusche:

I am in receipt of your March 13, 2018, letter addressed to Ameren Missouri, but which was provided to Associated Electric Cooperative, Inc. ("AECI") and subsequently provided to Ameren Missouri by AECI. In your letter you ask that Magnitude 7's electric service from Ameren Missouri be disconnected effective March 19, 2018. Your request is consistent with Magnitude 7's public announcement earlier this week that it had reached agreement with AECI for AECI to act as Magnitude 7's electric supplier instead of Ameren Missouri.

Under ordinary circumstances, since Magnitude 7's property is located within Ameren Missouri's Missouri Public Service Commission-certificated service territory, Magnitude 7 would have the obligation to take service from Ameren Missouri, and Ameren Missouri would have the obligation to provide that service. However, in response to your letter we have already contacted AECI so that Magnitude 7's service with Ameren Missouri can end on March 19 with AECI's beginning on that same date. We have agreed with AECI that this disconnection/connection will take place at 10:00 A.M. on March 19. We are accommodating your request to disconnect service with Ameren Missouri because of Magnitude 7's unique rights under Section 91.026 of the Revised Statutes of Missouri, which allow an "aluminum smelting facility" such as that located on Magnitude 7's property to contract with the electric service provider of its choice.

As noted, Ameren Missouri will disconnect its service at 10:00 A.M. on Monday, March 19, 2018. AECI has been notified, and has agreed, to commence its service at that time. A final bill for Ameren Missouri's service up to the time of disconnection will be forthcoming.

Sincerely,

A handwritten signature in blue ink that reads "Thomas M. Byrne".

Thomas M. Byrne
Sr. Director, Regulatory Affairs

In the Matter of the Cancellation of the)
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Originally Approved in File No. EA-2005-0180)
And the LTS Rate Schedule.)

County of New Madrid)
)
State of Missouri)

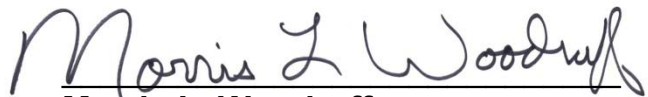
STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 12th day of April 2019.




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

April 12, 2019

File/Case No. ED-2019-0309

**Missouri Public Service
Commission**

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Missouri Division of Energy

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Union Electric Company

Wendy Tatro
1901 Chouteau Ave
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AmerenMOService@ameren.com

Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,



**Morris L. Woodruff
Secretary**

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.