

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 2nd day of May, 2018.

In the Matter of the Application)	
of Union Electric Company d/b/a)	File No. ET-2018-0132
Ameren Missouri for Approval of)	Tariff Nos. YE-2018-0103,
Efficient Electrification Program)	YE-2018-0104, & YE-2018-0105

**ORDER DENYING MOTION TO DISMISS AND
DENYING MOTION TO REJECT**

Issue Date: May 2, 2018

Effective Date: May 2, 2018

On February 22, 2018, Union Electric Company d/b/a Ameren Missouri filed an application and accompanying tariff sheets seeking approval of two new tariffed programs that are collectively referred to as the “Charge Ahead” program. The application also seeks approval of modifications to Ameren Missouri’s existing distribution system extension procedures, variances from portions of the Commission’s regulations regarding promotional practices, and a request for an accounting authority order (AAO) for the Charge Ahead program.

On April 3, 2018, the Staff of the Missouri Public Service Commission (Staff) filed its recommendation and a request for an evidentiary hearing. Staff recommended that tariff sheets, filed as Tracking No. YE-2018-0103, related to Ameren Missouri’s line extension policy be rejected as single-issue ratemaking. Staff also recommended that tariff sheets filed as Tracking Nos. YE-2018-0104 and YE-2018-0105 be suspended for 120 days.

Ameren Missouri responded to Staff's recommendations. Ameren Missouri argues that its line extension tariff filing does not constitute single-issue ratemaking. Ameren cites to the Commission's order in File No. GT-2016-0026 in which the Commission stated that Laclede Gas Company's line extension tariffs did not change the amount that the company could charge its customers for natural gas service, but would only change the terms and conditions by which the company offered that service to its customers.¹ In that case, the Commission cited to a Missouri Court of Appeals case² that supported a finding that:

Tariffs that change terms and conditions of service are different than tariffs that change the rates charged by the utility. As a result, the relevant factors to consider regarding those tariffs are also different, and do not fall within the prohibited practice of single-issue ratemaking.³

For similar reasons, the Commission finds that the line-extension tariffs proposed by Ameren Missouri are not an issue that would violate the policy against single-issue ratemaking if the Commission were to approve them in this case. Therefore, the Commission will deny Staff's motion to reject the line extension tariff. In its recommendation, however, Staff states that its discovery was not complete. If, during the course of this proceeding, additional facts come to light convincing the Commission that this is single-issue ratemaking, the Commission will take the appropriate action on its own motion.

Also pending before the Commission is the Office of the Public Counsel's (Public Counsel) April 5, 2018 motion to dismiss Ameren Missouri's application. Public Counsel

¹ *Order Denying Staff's Motion to Reject Tariffs*, File No. GT-2016-0026 (issued September 2, 2015).

² *State ex rel. Mo Gas Energy v. Public Service Commission*, 210 S.W.3d 330, 334 (Mo. App. W.D. 2006).

³ *Order Denying Staff's Motion to Reject Tariffs*, File No. GT-2016-0026 (issued September 2, 2015) at p. 5.

argues in its motion that the Commission lacks jurisdiction to authorize the Charge Ahead programs because there is no specific authorization for the Commission to do so in the Missouri statutes. Public Counsel also argues that the Commission should reject the Charge Ahead programs “because Ameren Missouri proposes that its captive ratepayers pay for the program subsidies and associated line extensions”⁴ which would expose those ratepayers to the risk of inefficiencies created in a competitive market. Finally, Public Counsel moves for the dismissal of Ameren Missouri’s application for a variance or waiver of the Commission’s promotion practices rules because it fails to specify the particular rule for which it is requesting a variance or waiver. In the alternative to dismissal, Public Counsel requested suspension of the tariff sheets and requested a hearing on the issues.

In response to Public Counsel, Ameren Missouri argues that the Commission has jurisdiction to authorize its proposed Charge Ahead program. Ameren Missouri states that well-settled case law confirms that the Commission is vested not only with the expressly stated statutory powers to approve various incentive and energy efficiency programs, but the Commission is also vested with all other powers “*necessary and proper to carry out fully and effectually all such powers so delegated*, and necessary to give full effect to the [Public Service Commission Law].”⁵ Thus, Ameren Missouri argues the premise that there must be a statute that expressly authorizes these programs is wrong as a matter of law. The Commission agrees that it has jurisdiction to review and authorize such programs and line extension tariffs.

⁴ *The Office of the Public Counsel’s Motion to Dismiss Union Electric Company d/b/a Ameren Missouri’s Application*, (filed April 5, 2018), at para. 3.

⁵ (Emphasis added). *State ex rel. Pitcairn v. Pub. Serv. Comm’n*, 111 S.W.2d 982, 986 (Mo. App. K.C. 1937), quoting *Public Service Commission v. St. Louis–San Francisco Railway Co.*, 256 S.W. 226, 228 (Mo. banc 1923).

With regard to Public Counsel's other points, the risks and benefits of the particular programs are issues to be heard by the Commission and not reason for dismissal without an opportunity for a hearing. Further, the Commission is also not inclined to dismiss an application due to Ameren Missouri's broad request for a variance from the entirety of Chapter 14⁶ of the Commission's regulations related to promotional practices. In its response, Ameren Missouri clarified that it made its broad request in case the Commission interpreted the entirety of Chapter 14 as applicable. However, its request for waiver could be properly limited to 4 CSR 240-14.020(1)(B) and (D). The Commission is satisfied with the limitation on the request for a variance and finds no reason to dismiss the application for vagueness.

The Commission has suspended the proposed tariffs until August 21, 2018. The parties met in a procedural conference on April 23, 2018, to discuss potential settlement and a procedural schedule. The parties will be directed to file a proposed procedural schedule as set out below.

THE COMMISSION ORDERS THAT:

1. The motion to reject tariffs filed by the Staff of the Missouri Public Service Commission is denied.
2. The motion to dismiss filed by the Office of the Public Counsel is denied.
3. No later than May 9, 2018, the parties shall jointly file a proposed procedural schedule.

⁶ 4 CSR 240-14.

4. This order is effective when issued.



Hall, Chm., Kenney, Rupp, Coleman, and
Silvey, CC., concur.

Nancy Dippell, Senior Regulatory Law Judge

BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

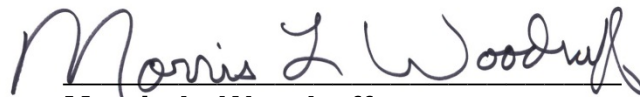
STATE OF MISSOURI

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 2nd day of May 2018.




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

May 2, 2018

File/Case No. ET-2018-0132

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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.