

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 24th day of March, 2021.

In the Matter of the Application of Union)
Electric Company d/b/a Ameren Missouri)
for Permission and Approval and a)
Certificate of Public Convenience and)
Necessity Under 20 CSR 4240-3.105)

File No. EA-2020-0371

**ORDER APPROVING STIPULATION AND AGREEMENT AND
GRANTING CERTIFICATE OF CONVENIENCE AND NECESSITY**

Issue Date: March 24, 2021

Effective Date: April 3, 2021

This case concerns the application of Union Electric Company d/b/a Ameren Missouri (Ameren Missouri) requesting a certificate of convenience and necessity (CCN) under Subsection 393.170.1, RSMo (Supp. 2020). Ameren Missouri seeks a CCN authorizing it to construct, install, own, operate, maintain, and otherwise control and manage a solar generating asset and all associated facilities in Montgomery County, Missouri, to serve as the second Program Resource for Ameren Missouri’s Community Solar Pilot Program (Program). Ameren Missouri, the Staff of the Commission (Staff), the Office of the Public Counsel (Public Counsel), and Renew Missouri Advocates d/b/a Renew Missouri (Renew Missouri) (collectively referred to as “Signatories”) filed a *Unanimous Stipulation and Agreement* on March 15, 2021, which resolves all the issues among the parties and requests the Commission grant Ameren Missouri a CCN with conditions.

The agreement represents that Sierra Club, the only party that did not sign the agreement, does not object to the agreement. Commission regulations allow non-

signatory parties seven days to object to a nonunanimous stipulation and agreement.¹ If no party timely objects, the Commission may treat the agreement as unanimous.² More than seven days have elapsed since the agreement was filed and no party objected. Thus, the Commission will treat the agreement as unanimous.

Background

In File No. EA-2016-0207, the Commission approved Ameren Missouri's Community Solar Pilot Program and associated tariff, and granted Ameren Missouri a CCN for its first Program Resource — the St. Louis Lambert International Airport solar generation facility. The Program launched in the fall of 2018, and was fully subscribed in 55 days. Construction of the Program's one-megawatt Lambert facility was completed in August 2019.

On November 25, 2019, Ameren Missouri filed an application and associated tariff to expand the Program.³ On May 28, 2020, the Commission approved a unanimous stipulation and agreement that continued and modified certain provisions related to two previous agreements in File No. EA-2016-0207. The approved unanimous stipulation and agreement and tariff allowed Ameren Missouri to market the Program to customers so that Ameren Missouri could determine the need for future Program resources.

On October 28, 2020, Ameren Missouri filed the application for a CCN currently before the Commission. The tariff governing the Program requires that at least 90% of a resource be subscribed prior to commencing construction. Ameren Missouri explained that, as of October 19, 2020, over 93% of the proposed Montgomery County facility's

¹ 20 CSR 4240-2.115(2)(B).

² 20 CSR 4240-2.115(2)(C).

³ File No. ET-2020-0022.

planned capacity was subscribed.⁴ The Commission issued notice of the application and directed Staff to file a recommendation. On February 5, 2021, Staff filed its report finding that Ameren Missouri met the initial filing requirements for a CCN application, concluding that all five Tartan criteria are met,⁵ and recommending approval of the application, subject to nine conditions. Subsequently, the parties had discussions and reached an agreement that the CCN for the Montgomery County facility should be granted with certain reasonable and necessary conditions.

Certificate of Convenience and Necessity

With regard to the application for a CCN, Ameren Missouri is an “electrical corporation” and a “public utility” as defined in Subsections 386.020(15) and (43), RSMo 2016. According to Subsections 393.170.1 and .2, RSMo (Supp. 2020), an electrical corporation may not construct electrical plant, with the exception of an energy generation unit of one megawatt or less, without first obtaining the permission and approval of this Commission. In granting a certificate, the Commission may give permission and approval when it has determined after due hearing⁶ that the construction is “necessary or convenient for the public service.”⁷ The Commission may also impose such conditions as it deems reasonable and necessary upon its grant of permission and approval.⁸

⁴ In paragraph 8 of the *Unanimous Stipulation and Agreement* filed on March 15, 2021, Ameren Missouri states that more than 100% of the Montgomery County Program Resource’s capacity is subscribed.

⁵ Referring to the criteria set out in *In re Tartan Energy Company*, 3 Mo.P.S.C. 173, 177 (1994) (“Tartan”).

⁶ The requirement for a hearing is met when the opportunity for hearing is provided and no proper party requests the opportunity to present evidence. No party requested a hearing in this matter; thus, no hearing is necessary. *State ex rel. Deffenderfer Enterprises, Inc. v. Public Service Comm’n of the State of Missouri*, 776 S.W.2d 494 (Mo. App. W.D. 1989).

⁷ Section 393.170.3, RSMo 2016.

⁸ Section 393.170.3, RSMo 2016.

Ameren Missouri requests authority to construct, own, operate, and maintain a solar generation facility for the continuation and expansion of its solar subscription pilot program. The parties to this proceeding have extensively negotiated the need for and the terms of this program and have agreed that the Commission should grant the CCN with certain conditions.

The Montgomery County facility will consist of approximately 6.16 megawatts of alternating current, single-axis, ground-mounted, tracking photovoltaic panels and associated facilities. The Montgomery County facility will be located on agricultural land currently owned by Ameren Missouri. Ameren Missouri has obtained a Conditional Use Permit from Montgomery County, Missouri. Ameren Missouri intends to apply for a land disturbance permit from the Missouri Department of Natural Resources just prior to the commencement of construction.

The Commission has commonly used five criteria as in determining whether construction and operation of a facility are necessary or convenient for the public service:

1. There must be a need for the service;
2. The applicant must be qualified to provide the proposed service;
3. The applicant must have the financial ability to provide the service;
4. The applicant's proposal must be economically feasible; and
5. The service must promote the public interest.⁹

In its application, Ameren Missouri explained that the expansion of its pilot program will allow more of its customers to voluntarily subscribe to the program thereby supporting the development of solar facilities by Ameren Missouri. Ameren Missouri stated that this

⁹ *In re Tartan Energy Company*, 3 Mo.P.S.C. 173, 177 (1994).

program would further the company's commitment to renewable generation in the state of Missouri. Additionally, Ameren Missouri stated that the fact that the Program is already fully subscribed with some customers having been on a waitlist for over two years, demonstrates there is a need for the company to support the desire of its customers for energy supplied from renewable sources. Ameren Missouri supported these statements with the sworn testimony of Annemarie Nauert and Scott J. Wibbenmeyer attached to its application.

The application also demonstrates, and the Signatories have agreed that Ameren Missouri is qualified to construct, install, own, operate, maintain, and otherwise control and manage this solar project and it is financially able to provide this service. The signatory parties also agree the project is economically feasible and is in the public interest. The Commission concludes that granting the application for a CCN meets the above-listed criteria.

The Commission has reviewed the verified application and its attachments, the Staff report, and the agreement. The Commission finds that granting Ameren Missouri's application for a CCN would serve the public convenience and necessity. Therefore, the application will be granted.

Conditions

Staff's report and recommendation set out nine conditions including the conditions, with some modifications, that were placed on the original solar pilot program CCN in File No. EA-2016-0207. After further discussions with Ameren Missouri and the other parties, agreement was reached as to which conditions are reasonable and necessary to be applied to the Montgomery County facility.

The Signatories agreed that Staff's proposed conditions 1, 2, and 9 should be imposed without modification, Staff's proposed conditions 3, 4, 6, and 8 should be imposed with modifications, and no other conditions should be imposed. The Commission has considered the conditions set out in the *Unanimous Stipulation and Agreement* and finds that they are reasonable and necessary to the grant of the CCN.

Conclusion

The Commission approves the agreement and grants Ameren Missouri a CCN for the Montgomery County facility with the reasonable and necessary conditions as set out in the ordered paragraphs below.

Ameren Missouri has requested, and the agreement contemplates that the Commission will approve the certificate no later than April 1, 2021. No party has opposed the current application or agreement. Therefore, this order will be given a ten-day effective date.

THE COMMISSION ORDERS THAT:

1. The *Unanimous Stipulation and Agreement* filed on March 15, 2021, and attached hereto is approved. The attached stipulation and agreement is incorporated into this order as if set forth herein. The parties are ordered to comply with the provisions of the stipulation and agreement.

2. Ameren Missouri is granted a certificate of public convenience and necessity to construct, install, own, operate, maintain, and otherwise control and manage a solar generating asset and associated facilities in Montgomery County, Missouri, under its expanded Community Solar Pilot Program as described in the *Unanimous Stipulation and Agreement*.

3. Ameren Missouri's certificate is granted with the following conditions:
 - a. Ameren Missouri shall contact the Missouri Department of Transportation (MODOT) and the Norfolk Southern Railway to inquire of any concerns with the Montgomery solar facility and, for MODOT, the additional issue of the possibility of glare and file documentation regarding the contact in this case file.
 - b. Ameren Missouri shall submit final plans and project specifications and the final operating and maintenance manual as they are available.
 - c. Staff and Ameren Missouri shall jointly file agreed upon in-service criteria for the Montgomery solar facility with the Commission within 90 days of granting the CCN. The filed in-service criteria will be used to evaluate whether the Community Solar facility, once operational, meets the fully operational and used for service standard in Section 393.135, RSMo.¹⁰
 - d. The conditions and recommendations agreed to in File Nos. EA-2016-0207 and ET-2020-0022 shall continue to apply to the new facility [Project], except as otherwise provided in this Stipulation.
 - e. Ameren Missouri shall track all revenues, investments, and expenses directly related to the Resource and any future Community solar resources and record them into separate accounts or subaccounts, to the extent practical, separately by facility starting with the in-service date for the facility. Ameren Missouri shall prepare, in support of future general rate cases, an analysis using reasonable allocation methods for those categories of expenses where it is not practical to specifically track the transactions in the general ledger.
 - f. The additional land at the Montgomery site shall remain in plant held for future use until a future use is identified for it.
 - g. The sharing mechanism described in paragraph 15 of the *Non-Unanimous Stipulation and Agreement* on pages 9-10 in File No. EA-2016-0207 will remain unchanged up to the confidential estimated total cost of the initial construction of the Project as set out in paragraph 24 of the Company's *CCN Application*.¹¹ If the actual costs of initial construction exceed the confidential estimated total cost of the initial construction of the Project as set out in paragraph 24 of the Company's *CCN Application*, customers will not share in any of the excess costs.

¹⁰ Ameren Missouri anticipates that the Project's in-service criteria will be similar to the in-service criteria used for Ameren Missouri's past solar projects (the O'Fallon Renewable Energy Center and the Lambert Resource).

¹¹ Filed October 28, 2020.

4. Nothing in this order shall be considered a finding by the Commission of the reasonableness of the expenditures herein involved, nor of the value for ratemaking purposes of the properties herein involved, nor as an acquiescence in the value placed on the property.

5. The Commission reserves the right to consider the ratemaking treatment to be afforded the expenditures and properties herein involved, and the resulting cost of capital, in any later proceeding.

6. This order shall be effective on April 3, 2021.



BY THE COMMISSION

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

Morris L. Woodruff
Secretary

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

Dippell, Deputy Chief Regulatory Law Judge

**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 Permission and) **File No. EA-2020-0371**
Approval and a Certificate of Public Convenience and)
Necessity)

UNANIMOUS STIPULATION AND AGREEMENT

Union Electric Company d/b/a Ameren Missouri (“Ameren Missouri” or the “Company”), the Missouri Public Service Commission Staff (“Staff”), Renew Missouri Advocates d/b/a Renew Missouri and the Office of the Public Counsel (collectively the “Signatories”), present this *Stipulation and Agreement* (“Stipulation”) to the Missouri Public Service Commission (“Commission”) for its approval. Sierra Club has authorized the Signatories to indicate that it does not object to this Stipulation.

BACKGROUND

1. In File No. EA-2016-0207, the Commission approved Ameren Missouri’s Community Solar Pilot Program (the “Program”) and associated tariff, and granted Ameren Missouri a CCN for its first Program Resource — the St. Louis Lambert International Airport solar generation facility (“Lambert Resource”). The Program launched in the fall of 2018, and was fully subscribed in 55 days. Construction of the Program’s one-megawatt Lambert Resource was completed in August 2019.

2. On November 25, 2019, Ameren Missouri filed an *Application for Approval to Expand Community Solar Pilot Program and Associated Tariff* seeking expansion of the Program, which was designated File No. ET-2020-0022.

3. On May 13, 2020, Ameren Missouri, the Commission’s Staff, the Office of the Public Counsel, and Renew Missouri filed a *Unanimous Stipulation and Agreement*

("Agreement") agreeing to continuation of certain provisions related to the First and Second Stipulations filed in File No. EA-2016-0207 and modifying provisions to allow for marketing to customers so Ameren Missouri may determine need for future Pilot resources¹.

4. Via Order effective June 8, 2020, the Commission approved the Agreement and compliance tariff sheets now in effect.

5. Ameren Missouri immediately commenced active marketing of the Program expansion based on the agreement stipulated by signatories and approved by the Commission.

6. On October 28, 2020, Ameren Missouri filed an application for a Certificate of Convenience and Necessity ("CCN") to construct, install, own, operate, maintain, and otherwise control and manage a solar generating asset and associated facilities ("*CCN Application*"), to become the second Resource under the Company's expanded Community Solar Pilot Program ("the Project").

7. In paragraph 18 of the *CCN Application*, the Company explained that, as of October 19, 2020, over 93% of the Project's planned capacity was subscribed.

8. As of this filing, the Company represents over 100% of the Project planned capacity is subscribed.

¹ See par 8, Unanimous Stipulation and Agreement filed May 13, 2020.

9. On February 5, 2021, Staff filed its Report finding that Ameren Missouri met the initial filing requirements for the *Application*,² concluding that all five Tartan criteria are met,³ and recommending approval of the *Application*, subject to nine conditions.⁴

10. Ameren Missouri requested, and was granted, a two-week extension of time to clarify Staff's recommended conditions and respond to them.

11. The Commission may "impose such condition or conditions as it may deem reasonable and necessary" on a CCN under Section 393.170(3), RSMo.

12. The Signatories have come to an agreement on the reasonable and necessary conditions for the Project CCN as set forth below.

SPECIFIC TERMS AND CONDITIONS

13. The Signatories agree Ameren Missouri should be granted the requested CCN subject to certain conditions. This agreement only applies to the Project, and not any future projects.

14. The Signatories agree that Staff's proposed conditions 1, 2, and 9 should be imposed without modifications.

Staff Proposed Condition 1: The Commission order Ameren Missouri to contact MODOT and the Norfolk Southern Railway to inquire of any concerns with the Montgomery solar facility and, for MODOT, the additional issue of the possibility of glare and file documentation regarding the contact in this case file.

Staff Proposed Condition 2: Ameren Missouri shall submit final plans and project specifications and the final operating and maintenance manual as they are available.

Staff Proposed Condition 9: The Commission directs Staff and Ameren Missouri to jointly file agreed upon in-service criteria for the Montgomery solar facility with the Commission within 90 days of

² File No. EA-2020-0371, Staff Report, issued February 5, 2021, at p. 7.

³ Id. at Section IV.

⁴ Id. at pp. 1-2.

granting the CCN. The filed in-service criteria will be used to evaluate whether the Community Solar facility, once operational, meets the fully operational and used for service standard in Section 393.135, RSMo.⁵

15. The Signatories agree that modifications to Staff's proposed conditions 3, 4, 6, and 8 should be imposed as follows.

Staff Proposed Condition 3 as modified: The conditions and recommendations agreed to in Case Nos. EA-2016-0207 and ET-2020-0022 shall continue to apply to the new facility [Project], except as otherwise provided in this Stipulation.

Staff Proposed Condition 4 as modified: Ameren Missouri shall track all revenues, investments, and expenses directly related to the Resource and any future Community solar resources and record them into separate accounts or subaccounts, to the extent practical, separately by facility starting with the in-service date for the facility. Ameren Missouri shall prepare, in support of future general rate cases, an analysis using reasonable allocation methods for those categories of expenses where it is not practical to specifically track the transactions in the general ledger.

Staff Proposed Condition 6 as modified: The additional land at the Montgomery site shall remain in plant held for future use until a future use is identified for it.

Staff Proposed Condition 8 as modified: The sharing mechanism described in paragraph 15 of the Non-Unanimous Stipulation and Agreement on pages 9-10 in Case No. EA-2016-0207 will remain unchanged up to the confidential estimated total cost of the initial construction of the Project as set out in paragraph 24 of the Company's *CCN Application*. If the actual costs of initial construction exceed the confidential estimated total cost of the initial construction of the Project as set out in paragraph 24 of the Company's *CCN Application*, customers will not share in any of the excess costs.

16. The Signatories agree that no other conditions should be imposed on the

⁵ Ameren Missouri anticipates that the Project's in-service criteria will be similar to the in-service criteria used for Ameren Missouri's past solar projects (the O'Fallon Renewable Energy Center and the Lambert Resource).

requested CCN⁶. However, Ameren Missouri has committed to propose a permanent, non-pilot Community Solar Program in the Company's upcoming electric general rate case, File No. ER-2021-0240, and the Signatories will not be bound to support the approval of, or any parameters or terms of, the permanent program. Any future program evaluation may include evaluation of the value of solar study the Company committed to provide with its next Integrated Resource Plan ("IRP") update.

17. In order to meet procurement and construction commencement deadlines, which in turn impact project costs, the Signatories request that the Commission issue any order approving this Stipulation and granting the requested CCN subject to the foregoing specified conditions on or before April 1, 2021.

GENERAL PROVISIONS

18. This Stipulation is being entered into for the purpose of disposing of the issues that are specifically addressed herein. In presenting this Stipulation, none of the Signatories shall be deemed to have approved, accepted, agreed, consented or acquiesced to any ratemaking principle or procedural principle, including, without limitation, any method of cost or revenue determination or cost allocation or revenue related methodology, and none of the Signatories shall be prejudiced or bound in any manner by the terms of this Stipulation (whether it is approved or not) in this or any other proceeding, other than a proceeding limited to enforce the terms of this Stipulation, except as otherwise expressly specified herein.

19. This Stipulation has resulted from extensive negotiations, and the terms

⁶ Staff proposed Condition 5 is not modified by this Stipulation, and remains the same as in Case Nos. EA-2016-0207 and ET-2020-0022. Staff proposed Condition 7 is a statement, not a condition, and thus not addressed by this Stipulation.

hereof are interdependent. If the Commission does not unconditionally approve this Stipulation, or approves it with modifications or conditions to which a party objects, then this Stipulation is considered to be void and no Signatory will be bound by any of its provisions.

20. If the Commission does not unconditionally approve this Stipulation without modification, or approves it with modifications or conditions to which a party objects, and notwithstanding its provision that it shall become void, neither this Stipulation, nor any matters associated with its consideration by the Commission, shall be considered or argued to be a waiver of the rights any Signatory has for a decision in accordance with Section 536.080, RSMo. 2000, or Article V, Section 18, of the Missouri Constitution, and the Signatories retain all procedural and due process rights as fully as though this Stipulation had not been presented for approval, and any suggestions or memoranda, testimony or exhibits that have been offered or received in support of this Stipulation shall become privileged as reflecting the substantive content of settlement discussions and shall be stricken from and not be considered as part of the administrative or evidentiary record before the Commission for any further purpose whatsoever.

21. This Stipulation contains the entire agreement of the Signatories concerning the issues addressed herein and resolves all issues in this case.

22. This Stipulation does not constitute a contract with the Commission. Acceptance of this Stipulation by the Commission shall not be deemed as constituting an agreement on the part of the Commission to forego the use of any discovery, investigative or other power which the Commission presently has. Thus, nothing in this Stipulation is intended to impinge or restrict in any manner the exercise by the Commission of any

statutory right, including the right to access information, or any statutory obligation.

WHEREFORE, the Signatories respectfully request that the Commission approve this *Stipulation*, grant the requested CCN subject to the conditions set forth above, and grant any other and further relief as it deems just and equitable.

Respectfully submitted,

/s/ Jermaine Grubbs

Wendy K. Tatro, MO Bar #60261

Director & Assistant General Counsel

Jermaine Grubbs, MO Bar #68970

Ameren Missouri

1901 Chouteau

P.O. Box 66149, MC 1310

St. Louis, MO 63166-6149

Phone: (314) 554-3484

Facsimile: (314) 554-4014

AmerenMOService@ameren.com

Attorneys for Union Electric d/b/a Ameren Missouri

/s/ Nicole Mers

Nicole Mers, MO Bar #66766

P.O. Box 360

Jefferson City, Mo 65102-0360

Phone: (573) 751-4140

Facsimile: (573) 751-9285 (Facsimile)

nicole.mers@psc.mo.gov

**Legal Counsel for the Staff of the
Missouri Public Service Commission**

/s/ Tim Opitz

Tim Opitz, MO. Bar #65082

409 Vandiver Drive, Building 5,

Ste. 205

Columbia, MO 65202

Phone: (573) 825-1796

Facsimile: (573) 303-5633

tim@renewmo.org

Attorney for Renew Missouri

By: /s/ Marc D. Poston

Marc D. Poston (#45722)

Public Counsel

P. O. Box 2230

Jefferson City MO 65102

(573) 751-5318

(573) 751-5562 FAX

marc.poston@opc.mo.gov

Attorney for the Office of the Public Counsel

CERTIFICATE OF SERVICE

The undersigned certifies that true and correct copies of the foregoing have been e-mailed or mailed, via first-class United States Mail, postage pre-paid, to the service list of record of this case on this 15th day of March, 2021.

/s/Jermaine Grubbs
Jermaine Grubbs


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 24th day of March, 2021.




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

March 24, 2021

File/Case No. EA-2020-0371

Missouri Public Service Commission
Staff Counsel Department
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
staffcounsel@psc.mo.gov

Office of the Public Counsel
Marc Poston
200 Madison Street, Suite 650
P.O. Box 2230
Jefferson City, MO 65102
opcservice@opc.mo.gov

Missouri Public Service Commission
Nicole Mers
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
nicole.mers@psc.mo.gov

Renew Missouri
Andrew J Linhares
3115 S. Grand Ave
Suite 600
St. Louis, MO 63118
Andrew@renewmo.org

Renew Missouri
Tim Opitz
409 Vandiver Dr Building 5, Suite 205
Columbia, MO 65202
tim@renewmo.org

Renew Missouri
James M Owen
409 Vandiver Drive
Building 5, Suite 205
Columbia, MO 65202
james@renewmo.org

Sierra Club
Henry B Robertson
319 N. Fourth St., Suite 800
St. Louis, MO 63102
hrobertson@greatriverslaw.org

Union Electric Company
Jermaine Grubbs
1901 Chouteau Avenue
St. Louis, MO 63103
AmerenMOService@ameren.com

Union Electric Company
Wendy Tatro
1901 Chouteau Ave
St. Louis, MO 63103-6149
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.