

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 20th day of
January, 2016.

In the Matter of the Adjustment of Union Electric)	
Company d/b/a Ameren Missouri's Fuel Adjustment)	<u>File No. ER-2016-0130</u>
Clause for the 20 th Accumulation Period)	<u>Tariff No. YE-2016-0129</u>

ORDER REGARDING FUEL ADJUSTMENT CLAUSE TARIFF

Issue Date: January 20, 2016

Effective Date: January 27, 2016

On November 25, 2015, Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri"), submitted direct testimony and a tariff designed to implement an adjustment to its Fuel and Purchased Power Adjustment Clause ("FAC"). Ameren Missouri submitted a substitute tariff on December 22, 2015, bearing an effective date of January 27, 2016. In accordance with Ameren Missouri's FAC, the proposed rate schedules are designed to recover from customers 95 percent of the company's net cost increases or decreases. Ameren Missouri also submitted a true-up filing in File No. ER-2016-0129 to identify the net fuel costs it over-charged or under-charged customers during the 17th recovery period prescribed by its FAC, which amount was used when calculating the fuel adjustment rates in this case. No persons or entities have applied to intervene in this case.

The Commission's Staff filed a recommendation regarding Ameren Missouri's tariff on December 28, 2015. Staff stated that Ameren Missouri's actual fuel and purchased power costs match the fuel and purchased power costs included in the company's calculated rates set in the submitted tariff. Staff advised the Commission to approve the

tariff submitted by Ameren Missouri to become effective on its January 27, 2016 effective date. Staff has verified that Ameren Missouri is not delinquent on any assessment and has filed its 2014 Annual Report. Ameren Missouri is current on the filing of its Surveillance Monitoring reports as required in 4 CSR 240-20.090(10) and its monthly reports as required by 4 CSR 240-3.161(5). Staff is not aware of any other matter before the Commission that affects or is affected by this filing, except as noted herein.

On January 7, 2016, the Office of the Public Counsel (“OPC”) and the Missouri Industrial Energy Consumers (“MIEC”) filed a Motion to Reject Tariff, alleging that the proposed tariff does not comply with Ameren Missouri’s FAC mechanism because it incorrectly calculates the N factor, which is an adjustment triggered by Noranda Aluminum, Inc.’s load changes. On January 12, 2016, Ameren Missouri, Staff, OPC, and MIEC (collectively, “Signatories”) filed a pleading titled *Nonunanimous Stipulation and Agreement* (“Agreement”). However, since the Agreement was not signed by all parties, the Agreement is non-unanimous. If no party files a timely objection to a non-unanimous stipulation and agreement, the Commission may treat it as a unanimous stipulation and agreement.¹ No party objected to the Agreement within the response time established by the Commission. Therefore, the Commission will treat the Agreement as a unanimous stipulation and agreement.

The Agreement states that more time is needed for the Signatories to discuss the appropriate calculation of the N factor, but the Signatories agree that a substitute FAC adjustment tariff should be approved by the Commission to take effect on January 27, 2016 that does not include any amount related to the N factor. The Signatories request that the

¹ Commission Rule 4 CSR 240-2.115(2).

Commission approve the terms of the Agreement, reject the tariff sheet filed by Ameren Missouri on December 22, 2015, order the exemplar tariff sheet attached to the Agreement be filed to become effective on January 27, 2016, and grant certain variances.

The Signatories request that Ameren Missouri be granted a variance from Commission Rule 4 CSR 240-20.090(4) and Ameren Missouri's tariffs beginning at MO.P.S.C. Schedule No. 6, 1st Revised Sheet No. 73, so that under the terms of the Agreement the N factor adjustment at issue in this case could be collected in a different recovery period. Commission rules² and Ameren Missouri's tariffs³ permit the company to request a variance for good cause shown. Good cause means a good faith request for reasonable relief.⁴ The Commission finds that Ameren Missouri has demonstrated good cause for the variances to ensure that the Commission rule and Ameren Missouri tariff do not prohibit the N factor adjustment from occurring at a future date and to provide the Signatories sufficient time to resolve their differences regarding that adjustment.

The Commission's rule regarding FACs requires the Commission to issue an order approving or rejecting the company's tariff within 60 days of its filing.⁵ Neither the governing statute⁶ nor any other law requires a hearing before approving the application.⁷ Because this is a non-contested case, the Commission acts on evidence that is not formally

² Commission Rule 4 CSR 240-20.090(15).

³ MO.P.S.C. Schedule No. 6, Original Sheet No. 105.

⁴ *American Family Ins. Co. v. Hilden*, 936 S.W.2d 207 (Mo. App. W.D. 1996).

⁵ Commission Rule 4 CSR 240-20.090(4).

⁶ Section 386.266, RSMo Supp. 2013. This section provides for a hearing when the FAC is approved, modified or rejected. It does not require a hearing when annual true-ups are filed by the company. Commission Rule 4 CSR 240-20.090(5) states the Commission may hold a hearing if needed, but one is not required.

⁷ Section 536.010(4), RSMo Supp. 2013, defines a contested as "a proceeding before an agency in which legal rights, duties or privileges of specific parties are required by law to be determined after hearing." *State ex rel. Rex Deffenderfer Ent., Inc. v. Public Service Commission*, 776 S.W.2d 494, 496 (Mo. App., W.D. 1989).

adduced and preserved.⁸ There is no evidentiary record.⁹ Consequently, the Commission bases its decision on the parties' verified filings.

The Commission may resolve any part of this proceeding on the basis of a stipulation and agreement.¹⁰ After reviewing the Agreement, the Commission independently finds and concludes that the Agreement is a reasonable resolution of the issues addressed by the Agreement and that such Agreement should be approved. The Commission will reject the tariff sheet substituted by Ameren Missouri on December 22, 2015 under Tariff Tracking Number Tariff No. YE-2016-0129, and direct Ameren Missouri to file the exemplar tariff sheet attached to the Agreement with the Commission as a new tariff sheet to become effective on January 27, 2016. The Commission will also approve the requested variances.

THE COMMISSION ORDERS THAT:

1. The *Nonunanimous Stipulation and Agreement* filed on January 12, 2016, is approved. The signatory parties are ordered to comply with the Agreement, which is incorporated herein in its entirety as if fully set forth. The Agreement shall be attached to this order as Appendix A.
2. Union Electric Company d/b/a Ameren Missouri's tariff filing, assigned Tariff Tracking No. YE-2016-0129, as substituted on December 22, 2015, is rejected.
3. Union Electric Company d/b/a Ameren Missouri shall file the exemplar tariff sheet attached to the *Nonunanimous Stipulation and Agreement* with the Commission as a

⁸ *State ex rel. Public Counsel v. Public Service Comm'n*, 210 S.W.3d 344, 353-355 (Mo. App. 2006).

⁹ *Id.*

¹⁰ Commission Rule 4 CSR 240-2.115(1)(B).

new tariff and a motion for expedited treatment requesting approval for the tariff sheet to become effective on January 27, 2016.

4. The requested variances to Commission Rule 4 CSR 240-20.090(4) and Ameren Missouri's tariff MO.P.S.C. Schedule No. 6 are granted as further described in the body of this order.

5. This order shall become effective on January 27, 2016.

BY THE COMMISSION



A handwritten signature in black ink that reads "Morris L. Woodruff". The signature is written in a cursive, flowing style.

Morris L. Woodruff
Secretary

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

Bushmann, Senior Regulatory Law Judge