

At a session of the Public Service Commission held by telephone and internet audio conference on the 28th day of June, 2023.

In the Matter of Union Electric Company	)	<b><u>File No. ER-2022-0337</u></b>
d/b/a Ameren Missouri's Tariffs to Adjust its	)	Tracking Nos. YE-2023-0222
Revenues for Electric Service	)	YE-2023-0227

**ORDER DIRECTING THE FILING OF SUBSTITUTE COMPLIANCE TARIFFS AND DELEGATING AUTHORITY TO THE REGULATORY LAW JUDGE**

Issue Date: June 28, 2023

Effective Date: July 8, 2023

On June 19 and June 22, 2023, Union Electric Company d/b/a Ameren Missouri filed tariff sheets (Compliance Tariffs) to comply with the Commission's June 14, 2023 Report and Order. That Report and Order became effective on June 24, 2023, and no requests for rehearing were received. Ameren Missouri requested that the Commission allow its Compliance Tariffs to become effective on July 1, 2023. The Office of the Public Counsel (Public Counsel) filed a pleading indicating that it did not object to the Compliance Tariffs or to those tariff sheets becoming effective on July 1, 2023. Public Counsel later objected to Ameren Missouri's Compliance Tariffs.

Public Counsel's objection was that it did not believe the Compliance Tariffs complied with the Commission's Report and Order. Public Counsel's position is that the Commission allocated the \$140 million increase to the customer classes on an equal percentage basis, and that the Compliance Tariffs apportioning amounts above the Section 393.1655.6 RSMo, Plant-in-Service Accounting (PISA) cap for the Large Primary Service (LPS) class as a uniform percentage adjustment to all other customer classes does not comply with the Commission's ordered allocation of Ameren Missouri's revenue

requirement. Public Counsel points to Conclusion of Law R. which states that the PISA caps have not yet been met to support that contention.

Ameren Missouri filed a response to Public Counsel's objection. Ameren Missouri notes that "whether the LPS cap is exceeded at all, and by how much cannot be known until the Report and Order is issued". Ameren Missouri continues that the accuracy of the rates calculated to reflect the PISA adjustment has not been disputed by Public Counsel. Ameren Missouri asserts that the only result of sustaining Public Counsel's objection would be to put off charging the same rates already approved.

Staff recommended that the Commission approve the Compliance Tariffs as compliant with the Commission's Report and Order, and approve those Compliance Tariffs to take effect on July 1, 2023. Staff stated that the allocation of revenue requirement to the classes was modified consistent with the provisions of Section 393.1655.6, RSMo. The date used for the calculation of the LPS cap was July 1, 2023. Staff noted that if the Compliance Tariffs did not become effective on July 1, 2023, they would need to be recalculated.

Section 393.1655.6 RSMo, requires no Commission determination. Public Counsel's assumption that the Commission needs to reopen the case to take evidence misunderstands the statute. Section 393.1655.6 RSMo directs how an electric utility must distribute amounts above the PISA LPS cap. Public Counsel does not disagree with how the Commission allocated the revenue requirement, only with the statutory application to that allocation.

Public Counsel and the other parties were aware that the PISA statute could apply to the Commission's allocations. The Stipulation and Agreement, to which Public Counsel was a signatory, acknowledges as much in footnote nine, which states: "Appropriate

consideration will be given to any interaction between the application of PISA and the RESRAM to Renewable Energy Standard investments.” No party asserted that an equal percentage allocation of the revenue requirement would exceed the PISA statutory cap. If the Commission had limited the allocation for the LPS class to two percent and allocated the remainder to the other classes as determined it would essentially be doing exactly what Section 393.1655.6 RSMo already does.

No evidence the Commission received would permit it to “overrule” the PISA statute’s distribution of amounts above the PISA cap. The Commission has no discretion to alter how the PISA statute operates. Accordingly, Public Counsel’s objection is denied.

Ameren Missouri requested that the Commission allow its compliance tariff sheets to become effective on July 1, 2023. However, the Missouri Court of Appeals has held that any shortening of the effective date of a Commission order to less than ten days is presumptively unreasonable.<sup>1</sup> Accordingly, the Commission will not grant Ameren Missouri’s request that the Compliance Tariffs take effect on July 1, 2023.

The Commission previously directed Ameren Missouri to submit exemplar tariffs on June 26, 2023, calculated for a July 9, 2023, effective date. Staff was ordered to evaluate the exemplar tariff sheets. Staff’s response indicated that if the Commission wanted to approve the exemplar tariff sheets it would need to have Ameren Missouri substitute the relevant tariff sheets that would be affected by approval of a July 9, 2023, effective date. Staff recommends that only 18 tariff sheets would need to be substituted, as follows:

6th Revised Sheet No. 54 canceling 5th Revised Sheet No. 54  
4th Revised Sheet No. 54.3 canceling 3rd Revised Sheet No. 54.3  
4th Revised Sheet No. 54.4 canceling 3rd Revised Sheet No. 54.4

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<sup>1</sup> *State ex rel. Office of Public Counsel v. Public Serv. Com’n*, 409 S.W.3d 522 (Mo. App. W.D. 2013).

2nd Revised Sheet No. 54.7 canceling 1st Revised Sheet No. 54.7  
2nd Revised Sheet No. 54.10 canceling 1st Revised Sheet No. 54.10  
2nd Revised Sheet No. 54.13 canceling 1st Revised Sheet No. 54.13  
6th Revised Sheet No. 55 canceling 5th Revised Sheet No. 55  
6th Revised Sheet No. 56 canceling 5th Revised Sheet No. 56  
6th Revised Sheet No. 57 canceling 5th Revised Sheet No. 57  
7th Revised Sheet No. 58 canceling 6th Revised Sheet No. 58  
7th Revised Sheet No. 58.1 canceling 6th Revised Sheet No. 58.1  
7th Revised Sheet No. 59 canceling 6th Revised Sheet No. 59  
2nd Revised Sheet No. 59.4 canceling 1st Revised Sheet No. 59.4 3  
6th Revised Sheet No. 61 canceling 5th Revised Sheet No. 61  
6th Revised Sheet No. 63 canceling 5th Revised Sheet No. 63  
3rd Revised Sheet No. 91.19 canceling 2nd Revised Sheet No. 91.19  
3rd Revised Sheet No. 91.20 canceling 2nd Revised Sheet No. 91.20  
4th Revised Sheet No. 92.3 canceling 3rd Revised Sheet No. 92.3

The Commission will now direct Ameren Missouri to file substitute compliance tariff sheets for the tariff sheets affected by a July 9, 2023 effective date as reflected in the exemplar tariff sheets. The Commission will also set time for responses.

The Commission may delegate any adjudicative authority to the Regulatory Law Judge assigned to this rate case under Section 386.240 RSMo. The Commission will delegate its authority to the Regulatory Law Judge to approve Ameren Missouri's compliance tariff sheets, and to determine whether good cause exists for those tariff sheets to take effect in less than 30 days.

The Commission finds it reasonable to make this order effective in less than 30 days.

**THE COMMISSION ORDERS THAT:**

1. Public Counsel's objection to Ameren Missouri's Compliance Tariffs is denied.
2. Ameren Missouri's request that its Compliance Tariffs take effect on July 1, 2023, is denied.

3. Ameren Missouri shall file substitute tariff sheets as reflected in the exemplar compliance tariff sheets it filed on June 26, 2023, to replace Compliance Tariffs that would be affected if the Commission approved Compliance Tariffs to take effect on July 9, 2023, including the following 18 tariff sheets (Tracking No. YE-2023-0222):

6th Revised Sheet No. 54 canceling 5th Revised Sheet No. 54  
4th Revised Sheet No. 54.3 canceling 3rd Revised Sheet No. 54.3  
4th Revised Sheet No. 54.4 canceling 3rd Revised Sheet No. 54.4  
2nd Revised Sheet No. 54.7 canceling 1st Revised Sheet No. 54.7  
2nd Revised Sheet No. 54.10 canceling 1st Revised Sheet No. 54.10  
2nd Revised Sheet No. 54.13 canceling 1st Revised Sheet No. 54.13  
6th Revised Sheet No. 55 canceling 5th Revised Sheet No. 55  
6th Revised Sheet No. 56 canceling 5th Revised Sheet No. 56  
6th Revised Sheet No. 57 canceling 5th Revised Sheet No. 57  
7th Revised Sheet No. 58 canceling 6th Revised Sheet No. 58  
7th Revised Sheet No. 58.1 canceling 6th Revised Sheet No. 58.1  
7th Revised Sheet No. 59 canceling 6th Revised Sheet No. 59  
2nd Revised Sheet No. 59.4 canceling 1st Revised Sheet No. 59.4 3  
6th Revised Sheet No. 61 canceling 5th Revised Sheet No. 61  
6th Revised Sheet No. 63 canceling 5th Revised Sheet No. 63  
3rd Revised Sheet No. 91.19 canceling 2nd Revised Sheet No. 91.19  
3rd Revised Sheet No. 91.20 canceling 2nd Revised Sheet No. 91.20  
4th Revised Sheet No. 92.3 canceling 3rd Revised Sheet No. 92.3

Ameren Missouri shall file the substitute tariff sheets today, June 28, 2023.

4. Staff shall inform the Commission no later than 2:00 p.m. on June 29, 2023, whether Ameren Missouri's substitute tariff sheets comply with the Commission's Report and Order.

5. Any other parties are given until 2:00 p.m. on June 29, 2023, to comment on whether Ameren Missouri's substitute tariff sheets comply with the Commission's Report and Order.

6. The Commission delegates full authority to approve Ameren Missouri's compliance tariffs and substitute compliance tariffs, and if good cause exists, to shorten the time for the tariffs to become effective to July 9, 2023, to the Regulatory Law Judge assigned to this file.

7. This order shall become effective July 8, 2023.



**BY THE COMMISSION**

*Nancy Dippell*

Nancy Dippell  
Secretary

Rupp, Chm, Coleman, Holsman, and Kolkmeier, CC., concur.  
Hahn,C., abstains.

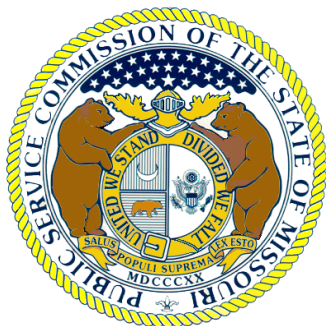
Clark, Senior Regulatory Law Judge

**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 28<sup>th</sup> day of June, 2023.**



*Nancy Dippell*  
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**Nancy Dippell**  
**Secretary**

**MISSOURI PUBLIC SERVICE COMMISSION**

**June 28, 2023**

**File/Case No. ER-2022-0337**

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

***Sincerely,***



**Nancy Dippell  
Secretary**

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