

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of Union Electric Company d/b/a)
Ameren Missouri's Requests for a Temporary)
Waiver of 20 CSR 4240-40.030(13)(R) and) File No. GE-2021-_____
(13)(V), for Waiver of 60-Day Notice)
Requirement, and for Expedited Treatment.)

**NOTICE OF CASE FILING, APPLICATION FOR VARIANCES,
MOTION FOR WAIVER OF 60-DAY NOTICE REQUIREMENT,
AND MOTION FOR EXPEDITED TREATMENT**

COMES NOW Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri" or "Company"), a Missouri corporation, and pursuant to 20 CSR 4240-2.060, 20 CSR 4240-2.080, 20 CSR 4240-4.017, and 20 CSR 4240-40.030(13)(R), (13)(V), and (18) submits this *Notice of Case Filing, Application for Variances, Motion for Waiver of 60-day Notice Requirement, and Motion for Expedited Treatment* ("Application"). First, in light of impacts on internal and external workforce availability due to COVID-19 quarantine requirements, the Company requests a temporary waiver of up to ninety (90) days or until April 1, 2021 to complete any remaining regulator station inspections under 20 CSR 4240-40.030(13)(R) that would otherwise be required to be completed by December 31, 2020. Second, the Company requests a temporary waiver of up to ninety (90) days or until April 1, 2021 to complete any remaining distribution system valve inspections under 20 CSR 4240-40.030(13)(V) that would otherwise be required to be completed by December 31, 2020. Third, the Company moves for waiver of the 60-day notice requirement under 20 CSR 4240-4.017(1)(D). Fourth, the Company moves for expedited decision from the Commission in accordance with 20 CSR 4240-2.080(14). In support of its requests, Ameren Missouri states as follows:

INTRODUCTION

1. The COVID-19 pandemic continues to present extraordinary and unprecedented health, economic, and social challenges.

2. As this Commission is well-aware, in March of 2020, Governor Parson declared a State of Emergency arising from the COVID-19 pandemic. See Executive Order No. 20-02 (Mar. 13, 2020). Through Executive Orders 20-09 and 20-12, Executive Order 20-02 has been extended until December 30, 2020.

3. Governor Parson, acting through the Missouri Department of Health and Senior Services ("DHSS"), has issued a series of additional orders arising from the pandemic, including orders closing schools, government offices and businesses, to prevent the further spread of COVID-19. See DHSS Order (Apr. 3, 2020), and successor DHSS orders. To assist with understanding these DHSS orders, fact sheets have been developed. The DHSS developed a "COVID-19: Close Contact Fact Sheet"¹ which recommends that any "close contact" to someone with COVID-19 should self-quarantine for fourteen (14) days since their last exposure to the person with COVID-19.

4. The U.S. Centers for Disease Control and Prevention ("CDC") provides guidance on "When to Quarantine."² This CDC guidance also recommends that any "close contact" to someone with COVID-19 should "[s]tay home for 14 days after [the] last contact with a person who has COVID-19." The CDC presents multiple example scenarios for calculating the quarantine timeframe. In Scenario 4, where a person lives with someone who has COVID-19 and cannot avoid continued close contact (such as providing direct care for the person with COVID-19), the 14-day

¹ A copy of this fact sheet is available at: <https://health.mo.gov/living/healthcondiseases/communicable/novel-coronavirus/pdf/close-contact-fact-sheet.pdf>.

² This guidance is available at: <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/quarantine.html>.

quarantine period would begin only after the person who has COVID-19 meets the criteria to end their home isolation. In other words, the timeframe for the "close contact" to isolate and quarantine may exceed 14 days.

5. In addition, local health departments have enacted quarantine and isolation orders. For example, on November 12, 2020, the St. Louis County Department of Public Health ("DPH") issued its Third Amended Quarantine and Isolation Order regarding COVID-19.³ It provides in pertinent part in paragraph III(B)(3): "Length of Quarantine: Persons who have been identified by DPH as a Close Contact to a Positive Person shall be quarantined until cleared by DPH in writing, generally for 14 days after the last exposure to the Positive Person assuming the person who is quarantined does not develop symptoms. The length of quarantine may be modified by DPH at any time."

6. As a consequence of COVID-19 quarantine requirements, throughout the month of October 2020, Ameren Missouri's gas operations field workforce (employees that work in the field) was reduced. There are currently a total of approximately 93 gas operations field workers. During the month of October 2020, an ** _____ ** field workers a day were under quarantine, and could not work in the field. As of Friday, November 13, 2020, there were** _____ ** gas operations field workers, or ** _____ ** of all field workers, under quarantine.

7. Furthermore, one of the external contractor crews that Ameren Missouri gas operations would usually rely upon for assistance with field work was completely unavailable under COVID-19 quarantine measures.

8. In order for certain gas operation tasks to be completed, the field worker must be "Operator Qualified," which means that they have been evaluated and confirmed to be qualified to

³ A copy of this order is available at: <https://stlcorona.com/dr-pages-messages/public-health-orders/all-public-health-orders-archives/third-amended-quarantine-and-isolation-order/>

perform specific tasks. For example, regulator station inspections under 20 CSR 4240-40.030(13)(R) are a covered task where the field worker performing the inspection must be "Operator Qualified." Due to COVID-19 quarantine requirements, **_____** field workers who are Operator Qualified for the special task of regulator station inspections are currently quarantined.

9. Ameren Missouri has authorized over-time pay, coordinated standby availability for leak response, and explored other sources for qualified field workers in order to timely comply with all Gas Code compliance obligations. Ameren Missouri has been able to timely complete and anticipates that it will be able to timely comply with most of its Gas Code compliance obligations that are due by the end of the year (December 31, 2020), such as required leak survey and corrosion inspections obligations. The Company is concerned however that, despite its efforts and in light of workforce impacts under COVID-19 quarantine requirements, it may not be able to timely complete by the end of the year (December 31, 2020) all required regulator station inspections under 20 CSR 4240-40.030(13)(R) and distribution system valve inspections under 20 CSR 4240-40.030(13)(V).

10. As of November 13, 2020 (when **_____** of the Company's internal gas operations field workforce was under quarantine), the Company had 142 regulator stations that still needed to be inspected by an Operator Qualified field worker and 469 valve inspections that still need to be completed by year-end.

11. Ameren Missouri will continue to drive to complete as many of the outstanding regulator station and valve inspections by year-end as possible, but requests a 90-day, temporary waiver or until April 1, 2021, for completion of its outstanding regulator station and valve inspections.

12. As the end of the year is swiftly approaching, Ameren Missouri seeks both waiver of the 60-day notice requirement under 20 CSR 4240-4.017 and expedited treatment under 20 CSR 4240-2.080(14).

13. This *Application* has been organized into the following sections:

- I. 20 CSR 4240-4.017 — Waiver of 60-Day Notice Requirement
- II. 20 CSR 4240-2.060(1), (A) through (M) — General Application Requirements
- III. 20 CSR 4240-40.030(13)(R) & (V) — Gas Compliance Items Variances
- IV. 20 CSR 4240-2.080(14) — Motion for Expedited Treatment

I. 20 CSR 4240-4.017 — Waiver of 60-Day Notice Requirement

14. Ameren Missouri requests a variance from the 60-day notice requirement of 20 CSR 4240-4.017, which states, in relevant part:

Any person that intends to file a case shall file a notice with the secretary of the commission a minimum of sixty (60) days prior to filing such case....

Pursuant to 20 CSR 4240-4.017(1)(D), waivers of the 60-day notice requirement may be granted for good cause shown. The rule further provides that good cause includes "... 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...."⁴ As indicated in the *Verification and Affidavit* attached as Schedule 1 to this *Application*, the Company has had no communication with the office of the commission, as defined in 20 CSR 4240-4.015(10), within the prior 150 days regarding any substantive issue likely to be in this case. Accordingly, Ameren Missouri has established good cause for a waiver from the 60-day requirement of 20 CSR 4240-4.017(1). No other public utility will be affected by granting the Company a waiver from this requirement.

II. 20 CSR 4240-2.060(1), (A) through (M) — General Application Requirements

Paragraph (A) – Applicant

15. The Company is a Missouri corporation doing business under the fictitious name of Ameren Missouri, organized and existing under the laws of the State of Missouri, in good standing

⁴ Pursuant to the Commission's *Order Waiving 60-Day Notice Requirement* issued on August 1, 2017, in File No. WM-2018-0023, the examples of good cause provided in the rule are not exclusive, and the Commission may find that good cause has been established by other circumstances.

in all respects, with its principal office and place of business located at One Ameren Plaza, 1901 Chouteau Avenue, St. Louis, Missouri 63103. The Company is engaged in providing electric and gas utility services in portions of Missouri as a public utility under the jurisdiction of the Commission. The Company is a subsidiary of Ameren Corporation.

Paragraph (B) – Articles of Incorporation; Paragraph (E) – Fictitious Name; Paragraph (G) – Information Previously Submitted; Paragraph (H) – Character of Business⁵

16. Company previously submitted to the Commission a certified copy of its Articles of Incorporation (See Case No. EA-87-105). Company previously submitted its Fictitious Name Registrations as filed with the Missouri Secretary of State's Office in File No. EA-2019-0181. Company attaches a copy of its Certificate of Corporate Good Standing as Schedule 2 to this pleading. These documents are incorporated by reference and made a part of this *Application* for all purposes.

Paragraph I – Correspondence and Communication

17. Correspondence and Communication — Correspondence, communications, orders and decisions in regard to this *Application* should be directed to the undersigned and to:

Thomas M. Byrne
Senior Director, Regulatory Affairs
1901 Chouteau Avenue, MC-1450
P.O. Box 66149, MC-1450
St. Louis, Missouri 63101-6149
(314) 554-2514 (Telephone)
tbyrne@ameren.com

Paragraph (K) – Actions, Judgments, and Decisions; Paragraph (L) – Fees⁶

18. Ameren Missouri has no final unsatisfied judgments or decisions against it from any state or federal agency or court that involve customer service or rates that have occurred within

⁵ Paragraphs (C), (D), and (F) do not apply to Ameren Missouri.

⁶ Paragraph (J) does not apply to Ameren Missouri.

three years of the date of this *Application*. By the nature of its business, the Company has, from time-to-time, pending actions in state and federal agencies and courts involving customer service or rates. Company has no annual report or assessment fees overdue to this Commission.

Paragraph (M) – Affidavit

19. An affidavit in support of this *Application* by an authorized individual is included as Schedule 1.

III. 20 CSR 4240-40.030(13)(R) & (V) — Gas Compliance Items Variances

20. 20 CSR 4240-2.060(4) states that, in addition to other application requirements:

[A]pplications for variances or waivers from commission rules and tariff provisions, as well as those statutory provisions which may be waived, shall contain information as follows:

- (A) Specific indication of the statute, rule, or tariff from which the variance or waiver is sought;
- (B) The reasons for the proposed variance or waiver and a complete justification setting out the good cause for granting the variance or waiver; and
- (C) The name of any public utility affected by the variance or waiver.

21. Specific Rules from which Variances Sought. Ameren Missouri requests temporary waiver of the regulator station inspection timeframe set out in 20 CSR 4240-40.030(13)(R)1 and the valve inspection timeframe set out in 20 CSR 4240-40.030(13)(V)2.

22. More specifically, 20 CSR 4240-40.030(13)(R)1 provides for regulator station inspections to be completed at least once each calendar year:

Each pressure limiting station, relief device (except rupture discs), and pressure regulating station and its equipment must be subjected at intervals not exceeding fifteen (15) months but at least once each calendar year to inspections and tests....

23. 20 CSR 4240-40.030(13)(V)2 provides for valve inspections to also be completed at least once each calendar year:

Feeder line and distribution line valves, the use of which may be necessary for the safe operation of a distribution system, shall be inspected at intervals not exceeding fifteen (15) months but at least once each calendar year.

24. Reasons for Temporary Variances. Due to the COVID-19 quarantine impacts diminishing the Company's internal gas operations field workforce and external contractor workforce, Ameren Missouri is concerned that it will not be able to complete the remaining regulator station and valve inspections by the end of the 2020 calendar year.

25. Ameren Missouri reiterates that it will continue to drive to complete as many of the outstanding regulator station and valve inspections by year-end as possible, but requests a 90-day, temporary waiver or until April 1, 2021, for completion of its outstanding regulator station and valve inspections.

26. Pursuant to 20 CSR 4240-40.030(18), the Commission may waive compliance with any of the requirements of Rule 20 CSR 4240-40.030 upon a showing that gas safety is not compromised.

27. Gas safety will not be compromised by granting the requested temporary waivers. Ameren Missouri agrees to prioritize the outstanding regulator station inspections based on the size/number of customers, and to prioritize the outstanding valve inspections based on the number of customers or outage counts within the valve zone. Ameren Missouri agrees to submit monthly reports to the Commission regarding the inspections completed, inspections then-outstanding, prioritization system, and plan to complete inspections then-outstanding. The waivers requested are also only temporary and up to 90 days or until April 1, 2021.

28. The requested waivers do, however, include gas safety rules under federal regulation — 49 CFR 192.739 & 192.747.

29. As indicated in 20 CSR 4240-40.030(18), federal law requires at least 60 days'

written notice to the U.S. Secretary of Transportation when a state commission approves waiver of a requirement under 49 CFR part 192. Specifically, 49 U.S.C. § 60118(d) provides, emphasis added:

If a certification under section 60105 of this title or an agreement under section 60106 of this title is in effect, the State authority may waive compliance with a safety standard to which the certification or agreement applies in the same way and to the same extent the Secretary may waive compliance under subsection (c) of this section. **However, the authority must give the Secretary written notice of the waiver at least 60 days before its effective date.** If the Secretary makes a written objection before the effective date of the waiver, the waiver is stayed. After notifying the authority of the objection, the Secretary shall provide a prompt opportunity for a hearing. The Secretary shall make the final decision on granting the waiver.

30. On March 20, 2020, the Pipeline and Hazardous Materials Safety Administration ("PHMSA") issued a *Notice of Stay of Enforcement and Notice of Enforcement Discretion to Operators Affected by the Coronavirus (COVID-19) Outbreak*.⁷ PHMSA's notice, at page 2 of 3, provides in pertinent part:

For intrastate operators regulated by State authorities, PHMSA will not object to waivers, special permits, stays of enforcement or similar measures granted by State authorities to pipeline operators for noncompliance due to COVID-19 with State regulations equivalent to the Federal regulations.

31. Ameren Missouri is willing to assist the Commission in reaching out to and providing any requested information to PHMSA in support of the requested temporary variances, and requests that the Commission Pipeline Safety Staff let the Company know what, if any, assistance or information is needed/requested.

32. Name of Public Utility Impacted by Waivers. Only Ameren Missouri will be

⁷ PHMSA's Notice can be found at: <https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2020-03/PHMSA%20Notice%20on%20Enforcement.pdf>.

impacted by the requested temporary waivers.

IV. 20 CSR 4240-2.080(14) — Motion for Expedited Treatment

33. Ameren Missouri moves for expedited treatment of this Application in accordance with 20 CSR 4240-2.080(14), which states:

(14) Any request for expedited treatment shall include the words “Motion for Expedited Treatment” in the title of the pleading. The pleading shall also set out with particularity the following: (A) The date by which the party desires the commission to act; (B) The harm that will be avoided, or the benefit that will accrue, including a statement of the negative effect, or that there will be no negative effect, on the party’s customers or the general public, if the commission acts by the date desired by the party; and (C) That the pleading was filed as soon as it could have been or an explanation why it was not.

Paragraph (A) – Action Date

34. Ameren Missouri requests a decision on this *Application* to be effective by at least December 31, 2020.

Paragraph (B) – Harm Avoided/Benefit

35. Given the impending deadlines for these inspections and the uncertain availability of internal and external workforce to complete the inspections due to COVID-19 quarantine measures, good cause exists to approve this *Application* on an expedited basis.

36. Moreover, there will be no negative impact on customers or the general public if the Commission grants such relief on an expedited basis.

Paragraph (C) – As Soon As *Application* Could Be Filed

37. This *Application* was filed as soon as it could have been, because the need for the requested temporary variances was only identified during the recent spike in COVID-19 infection rates and corresponding quarantine measures.

WHEREFORE, Ameren Missouri respectfully requests that the Commission grant the requested temporary variances, waiver of the 60-day notice requirement, and expedited treatment of this *Application*.

Respectfully submitted,

/s/ *Jermaine Grubbs*

Jermaine Grubbs

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**ATTORNEY FOR UNION ELECTRIC
COMPANY, d/b/a AMEREN MISSOURI**

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 19th day of November, 2020.

/S/ Jermaine Grubbs

Jermaine Grubbs