

In the Matter of the Tariff Filings of Union)	
Electric Company d/b/a Ameren Missouri, to)	File No. ER-2012-0166
Increase Its Revenues for Retail Electric Service.)	
In the Matter of the Adjustment of Union)	
Electric Company d/b/a Ameren Missouri's)	File No. ER-2013-0310
Fuel Adjustment Clause for the 11th)	
Accumulation Period.)	

COMES NOW Union Electric Company d/b/a Ameren Missouri (Company or Ameren Missouri), by and through counsel and, pursuant to 4 CSR 240-20.100(10), requests the Commission to grant it a waiver of or variance from 4 CSR 240-20.100(6)(A)16 for landfill gas costs for its Maryland Heights Landfill Gas Facility, and requests expedited treatment of its request pursuant to 4 CSR 240-2.080(14). In support of its requests the Company states as follows:

1. 4 CSR-20.100(6)(A)16 provides that “RES compliance costs” are not to be considered for cost recovery through a fuel adjustment clause (FAC) or interim energy charge. “RES compliance costs” are “prudently incurred costs, both capital and expense, directly related to compliance with the Renewable Energy Standard.” 4 CSR 240-20.100(1)(N).

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Missouri to the question on the afternoon of December 5, 2012, and representatives of Staff and Ameren Missouri began discussing them on a conference call the morning of December 6, 2012.¹ If it is, then either the waiver or variance requested by this Application is necessary, or several last-minute changes to various parameters in the above-captioned rate case will have to be made. Moreover, a recalculation of the above-captioned pending adjustment to the Company's FAC rate, and resubmission of the FAC tariff sheet to reflect that recalculation, will also have to occur. The changes in the rate case parameters would include changes to the net base energy costs in the FAC, to the RES compliance costs reflected in determining base rates, perhaps to the overall revenue requirement, and also perhaps the FAC tariff sheets. Moreover, absent a waiver or variance, changes would also be required for some of those same issues to the *Non-Unanimous Stipulation and Agreement Regarding Class Kilowatt-hours, Revenues and Billing Determinants, Net Base Energy Costs, and Fuel Adjustment Clause Tariff Sheets*, which was filed by its signatories (the Staff, the Company, and the Missouri Industrial Energy Consumers) in the rate case several weeks ago.²

3. Only a very small portion (a little more than two-tenths of one percent (0.24%)) of the total fuel for generation used to determine the stipulated net base energy costs are for Maryland Heights landfill gas plant fuel. The kilowatt-hours from the Maryland Heights facility are just approximately one and one-half tenth of one percent (0.16%) of the total kilowatt-hours of generation used to determine those same stipulated net base energy costs. Consequently, the impact of Maryland Heights on the net base energy costs and on overall net fuel costs in the

¹ The Staff initiated these discussions after its review of the Company's above-captioned FAC rate adjustment filing, where Maryland Heights fuel costs (and generation) were included in the calculation of the rates the Company proposed to charge under its FAC.

² As the Stipulation explicitly indicates, its signatories all included fuel for Maryland Heights and its generation in the net base energy costs used for the FAC calculations and, at the time of doing so, did not identify the potential issue caused by the relatively new RES rule, for which a waiver or variance is now sought. We would note that this is the first time fuel for a renewable energy resource has been included in a test year in a Company rate case.

FAC, is negligible. Moreover, if some or all of the fuel costs are RES costs and were removed from the FAC, they would have to be included in the RES cost recovery mechanism, which would result in no material change in prudently incurred costs ultimately paid by customers.

4. Because of the extremely small impact of this change on the FAC, and given the very late stage of the rate case (less than one week before it has been indicated that a Report and Order in the case may be issued; less than three weeks before the Staff's recommendation in the FAC case is due), the Company respectfully suggests that good cause exists to grant it a variance or waiver from the above-cited rule. Granting the variance or waiver will allow the parties to avoid the necessity (if one assumes that the landfill gas costs are, in whole or in part, RES compliance costs) of making at this very late stage of the rate case the several changes to various rate case parameters that would be required, and will obviate any need to recalculate and resubmit the FAC adjustment tariff.³ The Commission clearly has the authority to make such a good cause finding, because the Missouri Supreme Court has declared that, at its core, "good cause depends upon the circumstances of the individual case, and a finding of its existence lies largely in the discretion of the officer to which the decision is committed." *Wilson v. M.E. Morris*, 369 S.W.2d 402, 407 (Mo. 1963). Similarly, the Missouri Supreme Court has held that good cause is "...a cause or reason sufficient in law; one that is based on equity or justice or that would motivate a reasonable man under all the circumstances." *State v. Davis*, 469 S.W.2d 1, 5 (Mo. 1971).

³ While these fuel costs, or a portion of them, may be RES compliance costs, that may depend upon factors such as the cost of power purchases that do not have to be made because of the Maryland Heights generation relative to the cost of the Maryland Heights fuel, the price of off-system sales made possible by Maryland Heights relative to the fuel cost, and possibly other factors which neither the Company, the Staff, nor any other party has yet considered. Doing so is not reasonably possible within the next couple of weeks, particularly given the need to prepare and file rate case compliance tariffs, which would then be reviewed by the Staff and other parties.

5. The Company has consulted with the Staff, which supports this request for a limited variance or waiver so long as the Company commits to working with the Staff and other interested parties to resolve the issue of whether and to what extent some or all of the fuel costs for Maryland Heights and other potential renewable generation energy costs⁴ are RES compliance costs, and committing to have that work completed before another Company general electric rate case would be filed. The Company hereby makes that commitment. In that way, the parties can ensure that a similar issue does not come up in a future rate case. If it is determined that any of the cost of Maryland Heights fuel is a cost directly related to RES compliance, then it (or the appropriate portion of it) would not be included in net base fuel costs in a future rate proceeding. On the other hand, if it is determined that the fuel cost, or some portion of it, is not directly related to RES compliance, it could be considered for inclusion.

6. The Company also commits to keep track of the RES compliance cost of the Maryland Heights landfill gas facility so that it can and will properly be taken into account for purposes of applying the one percent rate cap provided for in the RES statute and the Commission's RES rules. Consequently, granting the requested waiver or variance will have no impact on the application of that rate cap.

7. The Company would note that it has included both the fuel for Maryland Heights and the kilowatt-hours of generation from the plant in the calculation of its FAC rate in the pending FAC rate adjustment filing just as it, the Staff and MIEC contemplated would be done, as evidenced by the inclusion of fuel for Maryland Heights in the net base energy costs agreed upon pursuant to the above-referenced Stipulation.⁵ The Company would also note that if the

⁴ This may be another renewable energy generating unit or the energy charges for renewable energy through purchased power agreements.

⁵ The Company has also specifically identified the fuel and generation for Maryland Heights in its monthly FAC reports starting with the plant's first full month of operation (July 2012).

Commission grants the variance or waiver requested herein, the net base energy costs used to measure changes in net base energy costs for future FAC adjustments will include Maryland Heights fuel and generation, meaning the currently pending and future FAC adjustments (until net base energy costs are reset in a future general rate case) should also include Maryland Heights fuel and generation.⁶

8. On Thursday, December 6 and Friday, December 7, the Company contacted all parties to both of the pending rate case and outlined the substance of this request. All such parties have confirmed that they do not object to this request.

MOTION FOR EXPEDITED TREATMENT

9. The Company requests that the Commission rule upon the limited waiver or variance requested herein by Wednesday, December 12, 2012. The harm that will be avoided by ruling on the request by that date is the loss of precious time to make necessary changes in the rate case or other filings that would be needed if the request were to ultimately be denied. Ruling by that date should have no negative effect on customers or the general public.⁷ The Company also requests that the time for responses, if any, ordinarily allowed under 4 CSR 240-20.080(13) be shortened to require responses to be filed no later than 5 p.m. Tuesday, December 11, 2012 (so that the requests made herein can be taken up at the Commission's Wednesday, December 12, 2012 Agenda session).

⁶ Otherwise, there would be a mis-match between the components of the base and the actual net energy costs. The Staff has indicated that it agrees that the currently pending FAC adjustment, and future FAC adjustments that would be based upon a comparison to the net base energy costs set in this rate case, should include fuel costs (and generation) for Maryland Heights.

⁷ As previously mentioned, whether some or all of the fuel costs are covered by the FAC or not, the prudently incurred costs will be recovered, either through the FAC or, eventually, through a RES cost recovery mechanism.

WHEREFORE, the Company prays that the Commission make and enter its order granting a variance or waiver from 4 CSR 240-20.100(6)(A)16 for landfill gas costs for its Maryland Heights landfill gas facility requested herein.

Respectfully submitted:

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Dated: December 7, 2012

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was served on all parties of record via electronic mail (e-mail) on this 7th day of December, 2012.

/s/James B. Lowery
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