BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Ameren Missouri's	)	
Application for Authorization to	)	File No. ET-2014-0350
Suspend Payment of Solar Rebates	)	Tariff No. YE-2014-0494

BRIGHTERGY, LLC'S COMMENTS REGARDING AMEREN MISSOURI'S APPLICATION FOR AUTHORITY TO SUSPEND PAYMENT OF SOLAR REBATES

Brightergy, LLC ("Brightergy") hereby submits its comments regarding the *Application for Authority to Suspend Payments of Solar Rebates* ("Application") filed by Union Electric Company, d/b/a Ameren Missouri ("Ameren Missouri" or "Company") on May 23, 2014. In response to the Ameren Missouri Application, Brightergy states as follows:

INTRODUCTION

1. Brightergy does not oppose Ameren Missouri's request to suspend solar rebate payments once the Company reaches the $91.9 million solar rebate cap established by the *Non-Unanimous Stipulation and Agreement* approved in Case No. ET-2014-0085 ("0085 Stipulation").[1] However, Ameren Missouri, in addition to requesting authorization to suspend payment of solar rebates, has also requested the Commission "confirm Ameren Missouri's calculation of the 1% Maximum Average Retail Rate Increase."[2] This request is contrary to the terms of the 0085 Stipulation and is no longer required by applicable Missouri law. Further, due to the outstanding and substantial disagreement concerning the correct 1% Retail Rate Increase ("RRI") calculation methodology, examination and confirmation of the RRI calculation and calculation method submitted by Ameren Missouri must be reserved for a separate Renewable Energy Standard ("RES") compliance filing.

[1] See *Non-Unanimous Stipulation and Agreement*, Case No. ET-2014-0085, November 8, 2013, Paragraph 7.a., p. 3.
[2] *Application for Authority to Suspend Payment of Solar Rebates*, Case No. ET-2014-0350, May 23, 2014, p. 4.

BACKGROUND

2. On July 3, 2013, Governor Jeremiah (Jay) Nixon signed into law HB 142 which became effective on August 28, 2013 and amends § 393.1030, RSMo. Codified as § 390.1030(3), RSMo, HB 142 anticipates a repeated, annual RRI calculation related to the payment of solar rebates. HB 142 states, in relevant part:

> If the electric utility determines the maximum average retail rate increase provided for in subdivision (1) of subsection 2 of this section will be reached in any calendar year, the electric utility shall be entitled to cease paying rebates to the extent necessary to avoid exceeding the maximum average retail rate increase if the electrical corporation files with the commission to ***suspend its rebate tariff for the remainder of that calendar year*** at least sixty days prior to the change taking effect. The filing shall include the calculation reflecting that the maximum average retail rate increase will be reached and supporting documentation reflecting that the maximum average retail increase will be reached. The commission shall rule on the suspension filing within sixty days of the date it is filed.[3]

3. Pursuant to the 0085 Stipulation, Ameren Missouri agreed to "frontload" a $91.9 million pool (the "specified level") of solar rebate funds available to Missouri ratepayers.[4] This agreement prevented substantial uncertainty and financial damage to the Missouri solar industry and its customers that would have resulted from a repeated, annual suspension of solar rebates under § 393.1030(3), RSMo, and 4 C.S.R. § 240-20.100(5).

4. Ameren Missouri further agreed in the 0085 Stipulation that

> [i]f and when solar rebate payments are anticipated to reach the specified level, Ameren Missouri will file with the Commission an application under the 60 day process as outlined in § 393.1030.3 RSMo. to cease payments beyond the specified level in the year in which the specified level is reached and all future calendar years.[5]

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[3] § 393.1030(3), RSMo 2013 (emphasis added).
[4] *Non-Unanimous Stipulation and Agreement*, Case No. ET-2014-0085, November 8, 2013, Paragraph 7.a., p. 3.
[5] *Id*.

5. Paragraph 7.b of the 0085 Stipulation addresses the RRI calculation methodology.[6] Ameren Missouri represented that it would utilize the "Staff's methodology" to calculate the 1% RRI cap.[7] However, Paragraph 7.b states that the 0085 Stipulation "has not resolved the method that will be utilized in the future to calculate the (1%) cap in the retail rate impact in future RES compliance filings."[8] In addition, the other signatories to the 0085 Stipulation reserved "the right to assert any position related to Ameren Missouri's use of the Staff's methodology in future RES compliance filings, and to propose alternative methodologies."[9]

COMMENTS

6. Pursuant to the terms of the 0085 Stipulation, the Commission is not required to confirm the RRI calculation or the RRI calculation methodology submitted by Ameren Missouri. Instead, the Commission must determine only whether Ameren Missouri solar rebate payments will reach or exceed the $91.9 million solar rebate cap.[10] In essence, the $91.9 million cap established by the 0085 Stipulation has entirely replaced the need to perform the 1% RRI calculation (as set forth in 4 C.S.R. § 240-20.100(5)) for the purpose of suspending solar rebate payments.

7. This procedure is consistent with the Commission's treatment of the *Application for Authority to Suspend Payment of Solar Rebates* recently filed by KCP&L Greater Missouri Operations Company ("GMO") in Case No. ET-2014-0277.[11] In that case, GMO filed its application to suspend solar rebates pursuant to a Non-Unanimous Stipulation filed in Case No.

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[6] *Non-Unanimous Stipulation and Agreement*, Case No. ET-2014-0085, November 8, 2013, Paragraph 7.b., p. 4.
[7] *Id.*
[8] *Id.*
[9] *Id.*
[10] See *Non-Unanimous Stipulation and Agreement*, Case No. ET-2014-0085, November 8, 2013, Paragraph 7.a., p. 3.
[11] See *Application for Authority to Suspend Payment of Solar Rebates*, Case No. ET-2014-0277, April 9, 2014.

ET-2014-0059.[12] The GMO application was only accompanied by: (1) sworn testimony stating that GMO anticipated that it would pay solar rebates in excess of its negotiated solar rebate cap; (2) a chart of GMO solar rebate applications received, committed, and paid; and (3) redlined copies of a revised solar rebate tariff. GMO did not file a formal RRI calculation and did not ask the Commission to confirm their general RRI calculation methodology.

8. On May 28, 2014, the Commission issued its *Order Approving Tariff* in Case No. ET-2014-0277. The Commission did not require GMO to submit a full 1% RRI calculation as directed by § 390.1030(3), RSMo, and 4 C.S.R. § 240-20.100(5). Instead, the Commission accepted and relied upon GMO's sworn testimony stating that its negotiated solar rebate cap would be reached or exceeded.[13] Based on GMO's testimony, and not an examination of a full RRI calculation, the Commission determined that the maximum average RRI (solar rebate cap) would be reached. Accordingly, the Commission authorized GMO to suspend solar rebates once its solar rebate cap is reached. As evidenced by the Order issued in Case No. ET-2014-0277, it appears that the Commission properly substituted GMO's negotiated solar rebate cap for the 1% RRI calculation.

9. Brightergy urges the Commission to make the same determination in the instant case. Ameren Missouri anticipates that rebate payments will soon reach the $91.9 million solar rebate cap. However, following the 0085 Stipulation, there is no need to perform the 1% RRI calculation to determine whether solar rebates may be suspended. The negotiated $91.9 million rebate cap frontloaded all solar rebate funds that may have been available under a traditional RRI calculation and has, in effect, replaced the RRI calculation otherwise required by § 393.1030(3),

[12] *Application for Authority to Suspend Payment of Solar Rebates*, Case No. ET-2014-0277, April 9, 2014, Paragraph 6, p. 2.
[13] *Order Approving Tariff*, Case No. ET-2014-0277, May 28, 2014, p. 4-5 ("Upon review of the pleadings, the Commission finds that the maximum average retail rate increase will be reached.").

RSMo, and 4 C.S.R. § 240-20.100(5). A determination concerning Ameren Missouri's RRI calculation or its RRI calculation methodology would be entirely unnecessary in this case and contrary to the terms of the 0085 Stipulation and recent Commission precedent.

WHEREFORE, Brightergy respectfully requests that the Commission refuse to make a determination concerning the RRI calculation and RRI calculation methodology filed by Ameren Missouri. Pursuant to the 0085 Stipulation, evaluation or confirmation of the 1% RRI calculation, as set forth in 4 C.S.R. § 240-20.100(5), is not necessary to determine whether Ameren Missouri solar rebate payments may be suspended.

Respectfully submitted,

SMITHYMAN & ZAKOURA, CHARTERED

By: __*/s/_Carson M. Hinderks*_____________

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ATTORNEYS FOR BRIGHTERGY, LLC

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been emailed this 20th day of June, 2014, to all parties on the Commission's service list in this case.

__*/s/_Carson M. Hinderks*_____________